

1 IN THE SUPREME COURT OF THE UNITED STATES
2 - - - - - x
3 NATIONAL MEAT ASSOCIATION, :
4 Petitioner :
5 v. : No. 10-224
6 KAMALA D. HARRIS, ATTORNEY GENERAL:
7 OF CALIFORNIA, ET AL. :
8 - - - - - x

9 Washington, D.C.
10 Wednesday, November 9, 2011
11

12 The above-entitled matter came on for oral
13 argument before the Supreme Court of the United States
14 at 10:04 a.m.

15 APPEARANCES:

16 STEVEN J. WELLS, ESQ., Minneapolis, Minnesota; on
17 behalf of Petitioner.

18 BENJAMIN J. HORWICH, ESQ., Assistant to the Solicitor
19 General, Department of Justice, Washington, D.C.; for
20 United States, as amicus curiae, supporting
21 Petitioner.

22 SUSAN K. SMITH, ESQ., Deputy Attorney General, Los
23 Angeles, California; on behalf of Respondents.

24
25

1	C O N T E N T S	
2	ORAL ARGUMENT OF	PAGE
3	STEVEN J. WELLS, ESQ.	
4	On behalf of the Petitioner	3
5	ORAL ARGUMENT OF	
6	BENJAMIN J. HORWICH, ESQ.	
7	For United States, as amicus curiae,	18
8	supporting Petitioner	
9	ORAL ARGUMENT OF	
10	SUSAN K. SMITH, ESQ.	
11	On behalf of the Respondents	27
12	REBUTTAL ARGUMENT OF	
13	STEVEN J. WELLS, ESQ.	
14	On behalf of the Petitioner	52
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 P R O C E E D I N G S

2 (10:04 a.m.)

3 CHIEF JUSTICE ROBERTS: We'll hear argument
4 first this morning in Case 10-224, National Meat
5 Association v. Harris.

6 Mr. Wells.

7 ORAL ARGUMENT OF STEVEN J. WELLS

8 ON BEHALF OF THE PETITIONER

9 MR. WELLS: Mr. Chief Justice, and may it
10 please the Court:

11 Congress has unmistakably ordained that one
12 set of rules govern animal handling and treatment,
13 inspection and determinations of meat quality for sale
14 at Federally inspected slaughterhouses from California
15 to Maine, and those rules kick in at the slaughterhouse
16 gate and they continue through the sale of the meat by
17 the slaughterhouse. California has enacted its own set
18 of rules regarding nonambulatory animals, rules which
19 were intended to be and are different than and in
20 addition to the Federal rules regarding the handling of
21 nonambulatory animals.

22 Where Federal law sets requirements for
23 receipt and allows for receipt if the -- if those rules
24 are followed, California law bans receipt of the animals
25 altogether.

1 JUSTICE SCALIA: What about purchase? What
2 about -- what about the contract to purchase? The
3 California law addresses that. Do you -- do you contend
4 that that is preempted as well?

5 MR. WELLS: We do, Your Honor.

6 JUSTICE SCALIA: How so?

7 MR. WELLS: Justice Scalia, the reason
8 that -- the reason that we do is because to the extent
9 that purchase is -- is even relevant with respect to a
10 Federally inspected slaughterhouse, I think all the
11 parties agree that it occurs on or after the receipt, so
12 it's part of the operational process.

13 JUSTICE KAGAN: What if it weren't? What if
14 it took place at an auction site apart from the
15 slaughterhouse?

16 MR. WELLS: Well, Justice Kagan I -- because
17 the scope of the FMIA starts at the gate of the
18 slaughterhouse and ends with sale, California I think
19 could regulate and not -- not have its regulation be
20 expressly preempted if it attempted to prevent purchase
21 before the purchase occurred.

22 JUSTICE SCALIA: Or contract of purchase. I
23 mean, if the contract of purchase is made apart from the
24 slaughterhouse itself, they -- they could make it
25 unlawful for the -- the person who raises the animals to

1 sell them when they are nonambulatory and unlawful for
2 the slaughterhouse to contract to buy them, right, so
3 long as the contract is off the premises?

4 MR. WELLS: So long as the -- so long as the
5 contract -- so long as title didn't pass, Your Honor, or
6 the -- it didn't interfere with what happens on the
7 premises from the gate through sale, then I believe that
8 would not be expressly preempted by --

9 JUSTICE SCALIA: Okay.

10 MR. WELLS: -- by Federal law. There could
11 be implied preemption issues, however, in that
12 circumstance.

13 JUSTICE SOTOMAYOR: So your -- your position
14 is if the contract for purchase is consummated in some
15 way on premises, that's preempted? And so your answer
16 to Justice Kagan and Justice Scalia is that if the
17 purchase contract occurs before the animals arrive at
18 the gate of the slaughterhouse, that that would not be
19 preempted?

20 MR. WELLS: Not be expressly preempted.
21 Again, there may be applied preemption issues, but if
22 the law -- I think, Your Honor, if the law is intended
23 to target --

24 JUSTICE SOTOMAYOR: Well, your whole
25 argument is on express preemption.

1 MR. WELLS: Yes, Your Honor. Absolutely
2 right.

3 JUSTICE SOTOMAYOR: You've given up any
4 argument on implied.

5 MR. WELLS: Before -- we've not raised that
6 argument before this Court, that's correct.

7 JUSTICE SOTOMAYOR: Please tell me why you
8 think the sale of the meat is expressly preempted? The
9 Solicitor General says it's a closer question on sale of
10 the meat because the slaughterhouse processes -- the law
11 is involved only with the operations and -- of the
12 premises and manner of slaughtering.

13 MR. WELLS: Right.

14 JUSTICE SOTOMAYOR: It has nothing to do
15 with sales. So why is the sale of the meat preempted?

16 MR. WELLS: Your Honor, sale is a -- it is a
17 practical step. And the word "operations" as used in
18 678, I think all the parties agree it encompasses all
19 the practical steps of the slaughterhouse. Sale clearly
20 is the last practical step, to which all other practical
21 steps are directed. So it is an operational step. It
22 would be news to the slaughterhouses that sales is not a
23 part of their operations. That's --

24 JUSTICE SOTOMAYOR: So how about there is a
25 law that says you can't slaughter cats, dogs or horses,

1 or you can't sell cats, horse -- dogs or horses for
2 slaughter?

3 MR. WELLS: And Your Honor, I'd have to --

4 JUSTICE SOTOMAYOR: Or for consumption.

5 MR. WELLS: I'd have to put --

6 JUSTICE SOTOMAYOR: Is that preempted?

7 MR. WELLS: It -- it would be. Well, with
8 respect to cats and dogs, the answer would be no,
9 because those are not an amenable species that are
10 subject to inspection at a Federally inspected
11 slaughterhouse, so that's outside the scope of --

12 JUSTICE SOTOMAYOR: There is a Federal
13 regulation to that effect?

14 MR. WELLS: No -- yes. Only amenable
15 species can be slaughtered; amenable species are defined
16 at U.S.C. -- 21 U.S.C. section 601 subsection (w). And
17 cats and dogs are not amenable species, so --

18 JUSTICE ALITO: And what's that definition?

19 MR. WELLS: Well, the definition is -- it's
20 kind of a roundabout definition, Your Honor. Amenable
21 species is -- mentions -- I mean, frankly, it mentions
22 catfish and -- and other species, and then all of the
23 animals which were amenable species prior to the
24 amendment of the act in 2005. We set that forth in
25 footnote 11 of our -- our brief but it clearly includes

1 swine and it includes -- it includes horses. It
2 includes cattle, obviously.

3 JUSTICE ALITO: So the Seventh Circuit
4 and -- and I forget what the other circuit -- was were
5 incorrect in saying that the -- that the State could
6 prohibit the slaughter of horses?

7 MR. WELLS: Yes, Your Honor. I believe they
8 were incorrect, although I would say that, even under
9 the rationale that the Fifth and Seventh Circuits used,
10 their rationale would not save this State law. And the
11 reason that it wouldn't is, even if you were to decide
12 that those statutes -- those cases were decided
13 correctly, the rationale that the court used was: We
14 can interpret those States' laws in a way that the --
15 the laws never have to affect the operations of the
16 slaughterhouse, because we can interpret those laws to
17 keep the animals off the slaughterhouse -- off premises.

18 It's easy to identify what's a horse and
19 keep it off the premises. That's not true with
20 nonambulatory animals. Nonambulatory animals present
21 with the symptom of nonambulatory-ness on the premises,
22 or on the trucks that are waiting to arrive on the
23 premises. So there is no way that this State law could
24 be interpreted in a way not to operate --

25 JUSTICE ALITO: Doesn't it seem strange to

1 hold that the Federal Meat Inspection Act speaks to an
2 issue like that? This doesn't have anything -- whether
3 or not horses should be slaughtered and sold and their
4 meat should be sold doesn't have anything to do with
5 food safety, does it? And it doesn't have anything to
6 do with humane treatment, assuming the same methods of
7 slaughter are used?

8 MR. WELLS: Well, I would disagree, Your
9 Honor. It clearly has to do -- this issue clearly has
10 to do with both of those issues. As the State has
11 admitted on page 6 of its brief, this law was intended
12 to address both -- both humane handling of animals,
13 which is covered directly in section 603(b) of the -- of
14 the Federal --

15 JUSTICE ALITO: No, I wasn't speaking of the
16 California law. I was speaking of the law that
17 prohibits the -- the slaughter of horses.

18 MR. WELLS: Well --

19 JUSTICE ALITO: That's based just on a
20 judgment, a societal judgment that this is an animal
21 that should not be slaughtered and sold for food. What
22 does that have to do with any of the purposes of the
23 Federal Meat Inspection Act?

24 MR. WELLS: Well, because Congress has made
25 a different -- a different judgment, Justice Alito; and

1 what Congress has said is: We have identified -- we
2 Congress have made a moral judgment that the following
3 species are amenable and may be inspected on
4 slaughterhouse premises, and to the extent that the
5 State is making a different moral judgment --

6 JUSTICE SCALIA: And that presumably is why
7 Congress excluded cats and dogs?

8 MR. WELLS: That -- Congress -- correct.

9 JUSTICE SCALIA: So Lassie -- Lassie and
10 Kitty are no good?

11 MR. WELLS: Congress made a moral judgment
12 that --

13 JUSTICE SCALIA: But Dobbin is all right.

14 MR. WELLS: I believe that's right, Your
15 Honor. It's a moral -- it is a moral judgment by
16 Congress as to which animals are going to be amenable
17 for slaughter and which ones aren't.

18 JUSTICE KAGAN: Mr. Young, you suggested
19 that even if the Seventh Circuit was correct, there
20 would still be a difference because of ease of
21 identification. You can tell a horse is a horse and
22 keep the horse away from the slaughterhouse. Would it
23 be possible to say the same thing about nonambulatory
24 swine? And I guess my question is, do nonambulatory
25 swine usually become nonambulatory in transit or at the

1 slaughterhouse, or could you identify such swine
2 earlier?

3 MR. WELLS: They -- nonambulatory swine
4 become nonambulatory -- may become nonambulatory in
5 transit. They may become nonambulatory on the
6 slaughterhouse premises. The only way that the
7 slaughterhouse operator knows that an -- that an animal
8 that has been transported has become nonambulatory,
9 however, is when the truck is brought onto the premises,
10 the gates are thrown open and the animals are shepherded
11 off and one of them doesn't move.

12 JUSTICE SCALIA: But -- but I guess the --
13 the State could make it unlawful for a rancher -- or --
14 what are the people that ship the animals, do you call?

15 MR. WELLS: Could be a rancher or a farmer.

16 JUSTICE SCALIA: A rancher or farmer; Could
17 make it unlawful for them to ship a -- a nonambulatory
18 swine, could -- could they not?

19 MR. WELLS: Congress -- Your Honor, Congress
20 actually has enacted regulations that don't -- they
21 don't apply to slaughterhouses because, again, the scope
22 with respect to slaughterhouses started --

23 JUSTICE SCALIA: Yes, but as far as this
24 statute is concerned, it would not preclude a State law
25 that forbids a -- a rancher to -- to ship a

1 nonambulatory swine, right?

2 MR. WELLS: That's correct. There are
3 Federal -- I should point out, there are Federal
4 regulations that govern the transportation of dead,
5 dying and diseased animals. They don't apply to
6 slaughterhouses. They may apply in the situation that
7 Your Honor is --

8 CHIEF JUSTICE ROBERTS: I would have thought
9 that your argument on sales would apply at the front end
10 as well. You say sales can't be regulated because it's
11 really just a way to get to the regulation of what goes
12 on at the slaughterhouse. Wouldn't that concern also
13 apply at the front end?

14 MR. WELLS: Well, Your Honor, our argument
15 about sales is slightly different, and it's a little
16 different than the argument that's being made by the
17 government. Our argument with respect to sale is, there
18 are requirements specifically regulating sale. That's
19 found in 21 U.S.C. section 610(c). That says
20 essentially meat may not be sold if it is adulterated
21 or, to put it another way, you may sell the meat if it's
22 unadulterated. So that's a requirement. It's within
23 the scope of the FMIA; it -- it goes directly to sales
24 as an operation.

25 And it is different than and in addition to

1 the State regulation, because what the State -- the
2 State adds another condition. They say you may not sell
3 the meat if it is from a nonambulatory animal or, looked
4 at the other way, you may sell the meat as long as it's
5 not from a nonambulatory animal.

6 CHIEF JUSTICE ROBERTS: Well, isn't that
7 logically not -- doesn't that logically not follow?
8 "You may not sell meat if it's been adulterated" doesn't
9 mean that you can sell meat so long as it's not been
10 adulterated; right?

11 MR. WELLS: Well, no. I think --

12 CHIEF JUSTICE ROBERTS: One is a limitation,
13 not a grant.

14 MR. WELLS: Well, I think, though, that
15 there were -- I think that -- the Federal -- what the
16 Federal Government has done is established a requirement
17 for the sale of meat. California has established
18 another requirement for the sale of meat.

19 Under Federal law, one requirement for the
20 sale of meat is that it not be adulterated, that it pass
21 through inspection, that it be stamped "USDA approved,"
22 all of the conditions that happen at the slaughterhouse.
23 The State, though, has set forth a different condition,
24 and that is you may not sell that meat unless it comes
25 from a nonambulatory animal --

1 JUSTICE ALITO: But -- isn't it the case
2 that most nonambulatory animals become nonambulatory
3 because of the method of transportation that's used? Do
4 you dispute the statistics in the brief of the non-State
5 Respondent that -- Respondents that -- nationwide,
6 approximately 220,000 swine die during transport,
7 another 440,000 become nonambulatory during the
8 transportation process?

9 MR. WELLS: I don't -- Your Honor, the short
10 answer is I don't know where those statistics come from
11 and to my knowledge they are not accurate. But I don't
12 have additional statistics to --

13 JUSTICE ALITO: Do you dispute the fact that
14 the -- that ranchers generally do not ship animals that
15 are nonambulatory at the time when the trip begins, but
16 that most of these nonambulatory animals become
17 nonambulatory during the transportation process?

18 MR. WELLS: I think that is a fair
19 assumption, Your Honor, with respect to pigs that
20 present being nonambulatory when -- when the doors to
21 the truck are opened. I think that that's correct. I
22 think that the practice is not to ship nonambulatory
23 animals if you know beforehand that they are
24 nonambulatory.

25 JUSTICE ALITO: And you think it's difficult

1 to identify which animals are nonambulatory? That's the
2 difference between horses, that's -- between prohibiting
3 the slaughter of horses, because you can tell whether
4 it's a horse or a pig, but you can't tell whether a pig
5 can walk?

6 MR. WELLS: No. It isn't the only
7 difference, Your Honor. Really, it -- the -- what I'm
8 really saying is the -- the condition of being
9 nonambulatory presents on the slaughterhouse premises
10 and so there is no way for a law to -- no one for us to
11 say that California law can be interpreted in a way that
12 will not tell a Federal slaughterhouse what to do and --
13 and how to do it with respect to nonambulatory animals.
14 That's not true in the horse case. In the horse case,
15 you can say keep the horses out, the -- the Federal
16 slaughterhouse doesn't have to have anything to do with
17 horses. So --

18 JUSTICE KAGAN: Would it be possible --

19 JUSTICE SOTOMAYOR: Can you tell me, if it's
20 okay for California to say you can't sell a
21 nonambulatory animal, and that that applies to everyone
22 off the slaughterhouse premises, is that -- that's
23 basically your position. So that if the purchase occurs
24 on premises, then the person who is selling it, even if
25 it's not the slaughterhouse, can still sell it on the

1 premises?

2 MR. WELLS: If I understand your question,
3 Your Honor, if the -- let's say just for the shorthand,
4 if title passes on the premises, if that's how it's
5 understood in the industry and that's what it is, that
6 would be preempted. But if the law took effect --

7 JUSTICE SOTOMAYOR: What a -- what a
8 fascinating area of immunity. Now what we're saying to
9 auction houses and everyone else is don't pass title
10 until you get to the slaughterhouse.

11 MR. WELLS: Well, Your Honor, it's just -- I
12 mean, I think the -- the real question is what has the
13 Federal Government said about nonambulatory animals in
14 general, and are those amenable species and may they
15 be -- may they be slaughtered and turned into food? And
16 the Federal regulations deal directly with that
17 situation. So whether title passes before or after, if
18 the animal is on the Federal premises, there are a whole
19 series of Federal regulations that tell the
20 slaughterhouse worker exactly what the worker is
21 supposed to do with that animal.

22 JUSTICE KAGAN: Does -- does that mean that
23 a State could actually pass a law and create a facility,
24 let's say, that says -- the law says the trucks have to
25 stop at the State facility before it gets to the

1 slaughterhouse, and at the State facility, we'll check
2 to see whether there are nonambulatory animals, and make
3 sure that those animals don't go on to the
4 slaughterhouse. Would a State be within its rights to
5 do that?

6 MR. WELLS: Your Honor, the language of
7 section 603(a) says that the inspection is to occur
8 before they enter the slaughterhouse. Now, that has
9 been interpreted by the Secretary to essentially mean
10 immediately before, so -- so trucks in line.

11 So I think, under -- under Your Honor's
12 hypothetical, if the State had set up their own
13 inspection program right immediately outside of a -- of
14 a Federally inspected slaughterhouse, that currently
15 would be within the scope of the FMIA, because that's
16 how the Secretary has defined it. The further upstream
17 it goes, though, the -- the less likely it is to be
18 expressly preempted.

19 JUSTICE ALITO: Well, if they do it at the
20 weigh station the truck has to stop at when it enters
21 the State, that would be okay?

22 MR. WELLS: That would not be expressly
23 preempted, Your Honor. There might be implied
24 preemption issues.

25 And if there are no further questions, I'd

1 like to reserve my remaining --

2 CHIEF JUSTICE ROBERTS: Thank you, counsel.

3 Mr. Horwich.

4 ORAL ARGUMENT OF BENJAMIN J. HORWICH,

5 FOR UNITED STATES, AS AMICUS CURIAE,

6 SUPPORTING THE PETITIONER

7 MR. HORWICH: Mr. Chief Justice, and may it
8 please the Court:

9 I haven't heard any quarrel this morning
10 with the proposition that if an animal goes down, say,
11 as it's entering the abattoir to be slaughtered, that
12 the State cannot at that point tell the slaughterhouse
13 how it is to handle that animal.

14 But that is not any different, of course,
15 than the situation where a pig goes down as it's coming
16 off the truck, or it presents as nonambulatory when the
17 gates of the truck are open, because it's still an
18 operational consideration; the same humane handling
19 requirements still apply. It's still a State
20 requirement and it's not -- it's still different from
21 the Federal requirements.

22 So the Court's questions this morning I
23 think have gone to kind of the situations at the
24 margins, at the extreme. So let me try to -- try to
25 address some of those questions.

1 The -- the question about whether -- the
2 question about the purchase of the nonambulatory animal
3 and the regulation, the regulation there, the first
4 thing is, as a practical matter, I think you have to
5 think about it in a concrete situation, which is that
6 there is a nonambulatory animal that's on the
7 slaughterhouse premises. That's the hypothetical that
8 we are in. And the question is what is the
9 slaughterhouse employee to do with that animal. And the
10 State law says well, you can't buy it, you can't hold
11 it, you can't receive it, you can't turn it into meat,
12 and you have to immediately euthanize it.

13 JUSTICE ALITO: Well, before you get to that
14 point, the animal has to be transported. Does Federal
15 law regulate for humane purposes the transportation of
16 animals to slaughterhouses?

17 MR. HORWICH: There are Federal laws
18 regarding transportation. The Federal Meat Inspection
19 Act has not been interpreted by the secretary to apply
20 specifically to trucks that are in transit, although I
21 should say that the secretary has, for example,
22 interpreted the FMIA -- and this is in Part 309.1(b) to
23 apply, at least to the extent of humane handling, to
24 pens at stockyards that are committed exclusively to a
25 slaughterhouse.

1 And I think if there were a situation such
2 as I think, Justice Kagan, your hypothetical envisioned,
3 where a State determined that it wanted to essentially
4 assert an inspection jurisdiction over animals that were
5 in transit to a slaughterhouse, so essentially between
6 the pen and the slaughterhouse, the secretary might well
7 recognize that -- that his authority needs to extend,
8 needs to extend to those, because the purpose of the
9 act, after all, is to set a Federal inspection standard
10 for animals to determine if they are suitable to be
11 turned into meat. And in your --

12 JUSTICE ALITO: Well, if the Federal -- if
13 Congress has not chosen to regulate the transportation
14 of animals to prevent inhumane treatment in transit, why
15 should a State law that aims at that objective be
16 preempted?

17 MR. HORWICH: Well, if you -- if you
18 disagree with -- if you disagree with me about the scope
19 of the FMIA in that regard, the State law with respect
20 to the handling of the animals while they are in transit
21 wouldn't be preempted. But of course the injunction
22 that I understand Petitioners to be seeking is not one
23 that goes to State regulation of trucks, but rather to
24 State regulation of animals that are on the
25 slaughterhouse premises. And the secretary has made

1 unmistakably clear that the scope of the FMIA is at
2 least as large as the official slaughter establishment's
3 premises.

4 JUSTICE ALITO: Well, if the State could
5 inspect the trucks at a weigh station before they get to
6 the slaughterhouse, why can't they do the same thing
7 when they get to the slaughterhouse, where it's more
8 practical to do that?

9 MR. HORWICH: Well, accepting the premise of
10 your hypothetical that the State could do the inspection
11 on the truck --

12 JUSTICE ALITO: Do you dispute -- you
13 dispute that?

14 MR. HORWICH: I dispute that, but I'll
15 accept that premise. Even if I accept that premise, the
16 question here is different because the secretary has
17 drawn a line that says the scope of the FMIA -- and
18 that's -- the question is the scope of Federal law here.
19 That's in section 678. The secretary has made very
20 clear that the scope of the FMIA extends to -- to all
21 animals that are on the premises of the establishment.
22 That's -- you can look at appendix --

23 JUSTICE GINSBURG: So is there anything
24 saved to the States? I mean, there is a savings clause.
25 Once you get to the entrance to the slaughterhouse, is

1 there any room for any State regulation?

2 MR. HORWICH: Absolutely, Justice Ginsburg.

3 I mean, State laws of general applicability would, to
4 the extent they don't in some particular application
5 introduce into the scope of the FMIA, they would apply.

6 And I also want to be very clear, so that
7 there's no mistaking the government's position: State
8 prosecutions for animal cruelty are not preempted to the
9 extent they are prosecuting conduct that is unlawful
10 under Federal law, because that is -- that is an example
11 of a State that is not applying a different or an
12 additional standard of conduct, but simply adding --
13 applying its own sanction for conduct that Federal law
14 would similarly sanction. So there is absolutely room
15 for State, the application of State law on the premises
16 of the slaughterhouse.

17 JUSTICE KENNEDY: In that respect, do State
18 inspectors routinely go on the premises of
19 slaughterhouses to ensure that their coextensive laws
20 are properly enforced? And if that's so, are there
21 problems of judgment, that a Federal inspector says, no,
22 this is okay under Federal law and the State official
23 says, no, this is not okay under the State law, even
24 though they say the same thing?

25 MR. HORWICH: I'm -- I am not aware that in

1 general State inspectors or other State officials would
2 go to the Federally inspected premises as a general
3 matter. But let's assume for the sake of argument that
4 they were and then your question -- excuse me --
5 presents the question about these sort of differences in
6 judgment that might be made. The Federal regulations
7 generally provide that the disposition made by
8 veterinarians, by Federal veterinarians, is the
9 conclusive judgment of the secretary as to the fitness
10 of the animal for turning into meat. And so in that
11 situation, the State official would not be able to reach
12 a different judgment on that question.

13 And so I -- so I think that would resolve
14 any situation where State officials were there. Of
15 course, the situation where State officials do
16 inspections is the one that the act itself envisions and
17 that California has not taken the opportunity to
18 implement, which is for intrastate-only plants States
19 can enact their own inspection regulations and have
20 their own inspectors there as long as they are following
21 Federal standards at a minimum.

22 JUSTICE BREYER: What am I supposed to do --
23 I have a quick procedural question, which I think is
24 similar to Justice Ginsburg's. Suppose this is three
25 sections, the State law, and some of them have three

1 parts. Suppose I thought, well, the word "buy" -- I
2 mean, "buy" might cover an awful lot of things that
3 don't have much to do with operations. Maybe sometimes
4 they do. Suppose I ended up thinking that, but I
5 thought you were right about all the rest of it. What
6 am I supposed to do?

7 MR. HORWICH: Well, I would like to have an
8 opportunity to take issue with your premise. But the
9 answer your question --

10 JUSTICE BREYER: No, no, no. I'm just doing
11 that hypothetically.

12 MR. HORWICH: Yes. The answer to your
13 question is this case comes here on preliminary
14 injunction, so I think the Court could appropriately
15 articulate its answer and its understanding of the
16 different provisions, and that probably would then lead
17 to the lower courts working out the particulars of the
18 injunction.

19 But let me actually make a point in that
20 regard about what the injunction might or might not look
21 like with respect to the buying provision, which is that
22 I don't understand the State to have some free-floating
23 interest in when title or does not pass. The State is
24 interested in regulating what animals can be purchased
25 because of a background principle of State law that I

1 assume exists, that slaughterhouses can't slaughter
2 things they don't own.

3 And if you put those two pieces together,
4 the ban on buying is nothing, is nothing but doing in
5 two steps what the State clearly can't do in one step,
6 which is tell slaughterhouses how they are to deal with
7 an animal that is on their premises. At least they
8 can't -- States can't tell slaughterhouses how to do
9 that when there is a Federal regulation on the subject.

10 JUSTICE SCALIA: Do we have to peel this
11 onion in order to decide this case? Do we have to go
12 through each little provision of the statute and say,
13 this is in, this is out, this is in, this is out? Can't
14 we just either affirm or reverse the particular
15 preliminary injunction that was -- that was issued here?

16 MR. HORWICH: I think the Court could, could
17 do that, although I think there is some concern that if
18 the Court were to find -- to have some concern with some
19 specific aspects of the injunction -- and I guess I
20 would let Petitioner's counsel speak to this -- there
21 would be some concern that vacating the injunction so
22 that it could be corrected would leave the -- the
23 Petitioner in a spot where it wouldn't have protection
24 from the vast majority of provisions.

25 JUSTICE BREYER: I have exactly Justice

1 Scalia's question. Do we have to write an 11-part
2 opinion where we treat each of these different things,
3 which are different, separately and analyze it? To
4 write an 11 part opinion or do we treat each of these
5 differently separately and analyze it. I'm not trying
6 to get out of work. I just want to know.

7 (Laughter.)

8 MR. HORWICH: Well, I think -- I think the
9 Court --

10 JUSTICE SCALIA: I'd like to get out of the
11 work, to tell you the truth.

12 (Laughter.)

13 MR. HORWICH: The right way to get out of
14 the work would be to understand that -- that California
15 has made every effort here to implement a provision
16 that -- to implement one underlying requirement, which
17 is that it wants to tell slaughterhouses: Don't turn
18 these animals into food immediately; euthanize them
19 instead, and the rest of these are just ways of
20 implementing that underlying requirement. And this
21 answers your question --

22 JUSTICE BREYER: Suppose we agree with you
23 about that. We say, if I agree with you about that,
24 there we are, you're supposed to pick up this animal
25 which is on the slaughterhouse floor and kill it right

1 away. That seems to have to do with operations. All
2 the rest of these other ten provisions are just
3 variations on that theme, according to the government,
4 and we send it back to them to argue this out below.

5 MR. HORWICH: If there would be anything
6 left to argue out below at that point.

7 JUSTICE BREYER: Well, there are ten other
8 parts. There are ten other parts.

9 MR. HORWICH: Well, there are the ten
10 points, but I actually want to answer -- well --

11 CHIEF JUSTICE ROBERTS: You want to give a
12 one-sentence answer?

13 MR. HORWICH: I think I can.

14 -- Justice Sotomayor's question, which is
15 about the sale of the meat, which again I think fits
16 under the rubric that it's just implementing the
17 underlying prohibition that California seeks here.

18 CHIEF JUSTICE ROBERTS: Thank you, counsel.
19 Ms. Smith.

20 ORAL ARGUMENT OF SUSAN K. SMITH

21 ON BEHALF OF THE RESPONDENTS

22 MS. SMITH: Mr. Chief Justice, and may it
23 please the Court:

24 In order to be preempted here, the State
25 provisions have to be -- excuse me -- the State law

1 provisions have to be within the scope of the act and
2 with respect to the premises, facilities, and
3 operations. None of the State provisions are within the
4 scope and some are not even operations.

5 JUSTICE SOTOMAYOR: Who defines the scope?

6 MS. SMITH: The scope are the mandates of
7 Federal law dealing with the method, quality, and
8 marketing of turning animals into meat for human
9 consumption.

10 JUSTICE SOTOMAYOR: All right. So now
11 explain how under your definition it's not among at
12 least one of those?

13 MS. SMITH: None of the provisions are
14 within the scope because California is not regulating
15 animals that are going to be turned into meat. And the
16 Federal Meat Inspection Act, the purpose of the act, the
17 legislative history of the act show, that the scope of
18 the act is concerned with animals that are going to
19 become meat.

20 JUSTICE KAGAN: Well, is that true, Ms.
21 Smith? I thought that under the Federal program some of
22 these animals could become meat, that under the Federal
23 program you take a nonambulatory animal and you say,
24 well, some of them might be condemned, but some of them
25 are suspect, and if they are only suspect it may be that

1 eventually they will be turned into meat.

2 MS. SMITH: That is correct. But the entire
3 purpose of the act is to inspect and examine animals to
4 determine whether or not their meat will be wholesome
5 and unadulterated.

6 JUSTICE SCALIA: Well, no, no. Provisions
7 of the act, at least as amended, also require humane
8 treatment of the animals while they are being processed.
9 That has nothing to do with whether the meat is any
10 good. It has to do with humane treatment of the
11 animals.

12 MS. SMITH: The humane treatment of the
13 animals deals with animals in the connection of
14 slaughter or while being slaughtered. And the animals
15 that California is regulating, the nonambulatory animals
16 that we're withdrawing from the process, will not be
17 slaughtered, will not be turned into meat. Even the --

18 JUSTICE SCALIA: Wait. You mean the Federal
19 requirements of humane treatment do not apply once the
20 slaughterhouse decides that this animal will not be
21 slaughtered for meat; then the slaughterhouse can do
22 whatever it wants with the poor animal? That can't be
23 right.

24 MS. SMITH: Well, the language of the
25 regulations, the Federal regulations dealing with U.S.

1 condemned animals, for instance, say that U.S. condemned
2 animals shall be killed and shall not be slaughtered and
3 dressed in the same facility with animals that will be
4 turned into meat. So even in the regulations there is a
5 distinction between animals that will be slaughtered for
6 meat and that will be edible and ones that are -- are
7 condemned --

8 JUSTICE SCALIA: What about the --

9 MS. SMITH: -- and will be killed.

10 JUSTICE SCALIA: What about the provision
11 that says that they will not be exposed to sharp --
12 sharp instruments that can injure them? Does that apply
13 to only those that are going to be sold for meat.

14 MS. SMITH: It applies to -- well,
15 specifically the provisions in the Federal Meat
16 Inspection Act apply to the animals that are going to be
17 turned into meat. To the extent that they apply to
18 other animals or all animals as has been referenced,
19 they would be pursuant -- those provisions would be
20 pursuant to the Humane Methods of Slaughter Act, which
21 is -- does not have a preemption clause and does not --

22 JUSTICE SCALIA: Well, wait, no. But that
23 act amends, amends, the act that does have a preemption
24 clause.

25 MS. SMITH: Correct.

1 JUSTICE SCALIA: And therefore it seems to
2 me the preemption clause applies to the humane
3 provisions as well.

4 MS. SMITH: It applies to the humane
5 provision with animals -- with respect to the animals in
6 connection with slaughter and that will be slaughtered,
7 with respect to the Federal Meat Inspection Act.
8 Because the Humane Methods of Slaughter Act was not
9 incorporated into the Federal Meat Inspection Act, it
10 does not have an express preemption clause, and there is
11 no language in the text of that act, the Humane Methods
12 Act, or in the legislative history showing that it was
13 an attempt to Federalize animal cruelty law, for
14 instance. So the idea that --

15 JUSTICE SCALIA: Just in slaughterhouses. I
16 mean, to the extent it's incorporated in that act, it
17 only applies to humane treatment by slaughterhouses,
18 right?

19 MS. SMITH: Correct. 603 and 610 of the
20 Federal Meat Inspection Act reference the Humane Methods
21 Act and reference that that is to be applied when the
22 animals are in the -- being processed in the connection
23 with slaughter and being slaughtered. So again, it
24 is -- it is limited to the animals that, that are going
25 to become meat under the Federal Meat Inspection Act.

1 CHIEF JUSTICE ROBERTS: But they don't --
2 you don't know whether they are going to become meat
3 until after the Federal process of post-mortem
4 inspection and all of that and your rules seem to
5 prohibit that.

6 MS. SMITH: Our rules -- well the ante-
7 mortem inspection and post-mortem inspection are
8 required of animals that are going to be turned into
9 meat, correct. And our -- the California law does not
10 touch on post-mortem inspection at all. And only in the
11 case -- excuse me. And as far as --

12 CHIEF JUSTICE ROBERTS: No, but I mean
13 your -- your argument up to this point has been that
14 this doesn't interfere with the Federal laws because the
15 Federal laws are designed only to deal with meat that is
16 for consumption. And you say with your -- with respect
17 to your animals, that's not what it is.

18 But here, as I understand the Petitioner's
19 and the government's position, it is that nonambulatory
20 animals can be turned into meat for consumption. So you
21 don't know whether it fits under the definition of the
22 State law until you've violated it.

23 MS. SMITH: No, because when an animal
24 becomes nonambulatory it is readily apparent. That's a
25 characteristic that is readily apparent. And in -- at

1 least in California, when the animal becomes
2 nonambulatory the requirement would be to immediately
3 euthanize the animal because it's not part of the meat
4 supply system.

5 JUSTICE KAGAN: But that's exactly where the
6 California system diverges from the Federal system,
7 because under the Federal system you separate the animal
8 out and then you take a look at it and then you decide
9 whether that animal can continue to go through the
10 process and eventually become meat or whether you
11 euthanize it. So the California system commands an
12 action that the Federal system say may be necessary but
13 may not be.

14 MS. SMITH: It commands an action, but it's
15 not within the scope of the act, because at the very
16 outset California is saying that these animals are not
17 to be part of the meat supply system in California.

18 JUSTICE KAGAN: Well, but the Federal system
19 has said maybe they should be part of the meat supply
20 system.

21 MS. SMITH: They may be part of the meat
22 supply system, but it's not required. It's not --
23 nonambulatory animals are not --

24 JUSTICE BREYER: But in any case -- look,
25 this is a simple question that occurs. I am an

1 inspector at a Federally inspected meat facility. I
2 look around and there is a -- a cow and it's lying down,
3 all right. It seems to me that your law says I have to
4 go over and see that it is immediately euthanized.

5 Now, how is that not what is forbidden, any
6 requirement -- the exact words are -- "in addition to or
7 different from the Federal requirements governing the
8 operations of that Federal meatpacking facility."

9 The Federal law does not require me
10 immediately to go over and euthanize the cow. Your law
11 does require me to go over and immediately euthanize the
12 cow. And therefore, your law seems an additional
13 requirement in respect to the operations of a meat
14 pack -- a Federally inspected meatpacking facility.
15 Now, that seems to me the obvious simple argument that
16 people have been making and I would like to know your
17 obvious simple answer.

18 MS. SMITH: Certainly, Your Honor. The
19 euthanization is an operation of the slaughterhouse.
20 But this, California's provision, is not within the
21 scope. And pursuant to 678, to be expressly preempted
22 it has to be within the scope and with respect to
23 operations.

24 So with respect to that provision, the
25 euthanization provision, we concede that it is, it is

1 part of the operations. But it is not within the scope
2 because we are dealing with an animal that California
3 has deemed as not part, as -- excuse me --

4 JUSTICE SOTOMAYOR: I understood that the
5 Federal regulation -- you can correct me if I'm
6 misunderstanding -- is that if there is a suspect animal
7 of any kind that it requires a slaughterhouse to wait
8 until the Federal inspector comes and finds out whether
9 it's just suspect or it's something that can't be sold.

10 And the reason why the inspection occurs as
11 I understand it is that there are some diseases that are
12 so contagious that if the inspector decides that that
13 animal is carrying that disease that the whole lot will
14 be quarantined or otherwise destroyed. So are you
15 fighting with -- that that's what the purpose of
16 pre-inspection under the Federal system is for?

17 MS. SMITH: The distinction I would make,
18 Your Honor, is that the purpose of the ante-mortem
19 inspection is to determine if the -- if the animal's
20 meat will be wholesome and unadulterated. To the extent
21 that the pre-inspection or the inspection also finds
22 diseases that can be passed on to other animals or, or
23 to the rest of the herd, that's -- that's certainly a
24 benefit, but it's not part of the purpose of the Federal
25 Meat Inspection Act.

1 JUSTICE SOTOMAYOR: I'm having a hard time
2 drawing that distinction. If there is a valid purpose
3 to the pre-mortem inspection -- and I can't see how you
4 can argue otherwise -- that there may be some diseases
5 that are so contagious that the entire lot, ambulatory
6 or nonambulatory swine, are affected, then I don't see
7 how you can argue that you aren't trenching on the scope
8 of the statute. If the scope of the statute is to
9 ensure that meat is unadulterated and if there is the
10 risk of contagion, that has to be within the scope.

11 MS. SMITH: Two points. One, the diseases
12 that were referenced by the amicus dealing with this are
13 diseases that will be passed to the animals, not to
14 humans.

15 And the second point is that the - the
16 purpose again of the act as specified in 602 is to make
17 sure that the meat of the animal is wholesome and
18 unadulterated. And the ante-mortem inspection will
19 occur for every animal that goes into the meat supply
20 system.

21 So if California withdraws a nonambulatory
22 animal, it doesn't receive the ante-mortem inspection,
23 it's not going into the meat supply system. But all of
24 the other animals in that pen that are ambulatory,
25 pursuant to the Federal law will receive that

1 ante-mortem inspection and will by the inspector, the
2 veterinarian, be declared disease free or not. So they
3 will find -- they will be able to find those diseases in
4 the ambulatory animals and the ones that are going into
5 the meat supply system.

6 JUSTICE KAGAN: So I suppose what you're
7 saying, Ms. Smith, is that California or any State is
8 entitled to take certain categories of animals outside
9 of the whole process, to exclude certain categories of
10 animals from the whole process and so to exclude them,
11 if you will, from of the scope of this chapter. And
12 much as the Seventh Circuit said a State can simply
13 exclude horses from the scope of this statute, you're
14 saying a State can exclude nonambulatory swine from the
15 scope of this statute.

16 But then you have to, you know, ask yourself
17 the question: Are nonambulatory swine so easily
18 excludable as horses. Why couldn't the State then
19 exclude swine with various kinds of diseases? And then
20 it would be clear that the State was doing something
21 that the Federal statute is supposed to be doing.

22 MS. SMITH: Your Honor, if your question is,
23 would that be preempted if California excluded pursuant
24 to other diseases, it would not be expressly preempted.
25 So California can make decisions on categories of

1 animals, here nonambulatory swine, and the express -- it
2 would not be expressly preempted. There may be
3 questions about conflict preemption, but in this
4 particular case, conflict preemption was litigated in
5 the Ninth Circuit and the Ninth Circuit found that there
6 was no conflict preemption.

7 JUSTICE SCALIA: Well, it's an additional
8 requirement. I don't know why it's conflict preemption.
9 It's express preemption. If indeed the Federal
10 regulations say that these diseases disqualify the
11 animal from being slaughtered and sold as meat, and
12 California says no, we think additional diseases should
13 disqualify the slaughter and sale, that's an additional
14 requirement. I don't know how you say that's somehow
15 conflict preemption. It's express preemption.

16 MS. SMITH: It's not expressly preempted
17 because it's not within the scope, because California is
18 not putting requirements on animals --

19 JUSTICE SCALIA: You keep saying "not within
20 the scope." I don't know what you mean by "not within
21 the scope." Why is it not within the scope?

22 MS. SMITH: Because the scope of the Federal
23 Meat Inspection Act does not include every animal on the
24 premises of a slaughterhouse. It's limited by the
25 language of the text of the Federal Meat Inspection Act

1 and the authority given to the Secretary.

2 JUSTICE SCALIA: Right, and what -- what
3 limits it? What enables the State to disqualify other
4 diseases that the Federal law does not disqualify?

5 MS. SMITH: California would -- there is no
6 requirement in -- there is nothing in the text of the
7 Federal act that specifies that States cannot withdraw
8 animals based --

9 JUSTICE SCALIA: "No additional
10 requirements" is what the act says.

11 MS. SMITH: Correct. But that is -- no
12 additional requirements going to animals that are going
13 to become meat. If California -- if California had a --

14 JUSTICE SCALIA: Well, it doesn't say that.
15 It says "no additional requirements" with respect to all
16 of the operations, both the operations that pertain to
17 those animals that are later sold as meat and the
18 operations that pertain to those animals that are
19 slaughtered and whose carcasses are burned or disposed
20 of. How do you get the limitation to only those animals
21 that are -- that are slaughtered for meat?

22 MS. SMITH: Because it's also within the
23 scope. Within the scope is part of the -- of the -- of
24 678. The express preemption clause references within
25 the scope of the chapter with respect to premises,

1 facilities, and operations. So there -- the scope of
2 the chapter must be considered in terms of what the
3 purpose is, what the language of the text allows the
4 Federal Government to --

5 CHIEF JUSTICE ROBERTS: So your argument is
6 that because the act doesn't speak to whether or not
7 cats and dogs and horses can be sold as meat, you can
8 also say it's not within the scope because it doesn't
9 speak to specifically whether nonambulatory animals can
10 be sold as meat or not.

11 MS. SMITH: Correct, and since Mr. --

12 CHIEF JUSTICE ROBERTS: Well, that seems to
13 me -- what you're saying then with respect to animals
14 that are slaughtered in a slaughterhouse is that the
15 difference is that the State law says you can't sell
16 that as meat while the Federal law says you can. Right?
17 In other words, you're saying, well, just because the
18 Federal law says you can, doesn't mean that the State
19 can't say you can't.

20 MS. SMITH: Correct.

21 CHIEF JUSTICE ROBERTS: Correct? Well,
22 isn't the exact flip side of saying you can sell it is
23 that -- that you can't sell it, is that you can. So
24 when the Federal law says you can, that preempts the
25 rule from the States that says you can't.

1 MS. SMITH: Well, the Federal law doesn't
2 say you must. It does not say you must sell the meat or
3 you must --

4 JUSTICE SCALIA: We are not talking about
5 conflict preemption. If it said you must and the State
6 says you can't, then there would be conflict preemption.
7 But we are talking about express preemption, which says
8 in so many words no additional requirements. And I
9 don't know how you can get around the fact that this is
10 an additional requirement.

11 MS. SMITH: Because the "no additional
12 requirements" has to be qualified within the scope of
13 the act.

14 JUSTICE BREYER: It does, you're right.
15 You're right. I see where you're going. It says we are
16 talking about regulations that are within the scope of
17 the act. But I had assumed that that means we are not
18 talking about airplanes; we are talking about the
19 subject matter of the act. And so is this the kind of
20 regulation that is within the subject matter of the act?
21 And it seems to be. It has to do with how you slaughter
22 animals.

23 It has to -- I mean, if you're going to be
24 so specific as to say the only things that are within
25 the scope of the act are the specific requirements that

1 are there already in the Federal act, then this
2 prohibition against extra, extra regulations means
3 nothing.

4 I mean, it can't mean that. So it just
5 means the subject matter. And now if it means the
6 subject matter, then why don't you lose?

7 MS. SMITH: This -- Well, even if one looks
8 at the subject matter instead of the scope of the act --

9 JUSTICE BREYER: What do you mean, instead
10 of? What is the scope of the act? Are you saying the
11 scope of the act refers only to those particular
12 provisions that are already in the act, requirements
13 already there?

14 MS. SMITH: Yes, the scope of the act --

15 JUSTICE BREYER: Yes? Then why did they put
16 in something saying you can't add anything?

17 MS. SMITH: Because the "in addition to" is
18 qualified by on the -- "with respect to the premises,
19 facilities, and operations and within the scope of the
20 act."

21 JUSTICE SOTOMAYOR: But you define the scope
22 almost exclusively by purpose and regulatory power is
23 broader than purpose. I mean, as is reflected by the
24 regulations here which are dealing not merely with
25 animals that are adulterated, but are dealing with the

1 whole process of what happens from the minute they
2 arrive to the minute they are sold. So if we don't
3 accept your limitation based on a scope being defined by
4 purpose, how do you win?

5 MS. SMITH: If one looks at the authority
6 given to the Secretary as well in 621, the authority is
7 specified as dealing with -- or making sure that no
8 adulterated meat or any carcass, part of carcass, meat
9 food product, therefore is not adulterated. So the
10 focus in 621 on the Secretary's authority is on making
11 sure that the -- that the meat is not adulterated.
12 So -- so it's not simply the -- the purpose of the act
13 at 602, but also the scope of the authority given to the
14 Secretary.

15 JUSTICE SOTOMAYOR: Well, you seem to be
16 assuming that in effecting its obligations that only
17 when it finds adulterated meat is that within the scope.
18 The government has basically said: We have got to
19 figure out if it is and this is how we are going to do
20 it: We are going to do it starting from the receipt of
21 the swine through its sale, and we are going to have
22 inspections all through the process, whether or not the
23 meat will ultimately be sold or not; our scope is what
24 happens in that slaughterhouse. That --

25 MS. SMITH: Correct. But the -- the focus

1 of the Secretary's authority, as well as the specified
2 purpose of the act, is focused on not all animals, but
3 animals that will eventually become meat and making the
4 determination by inspections or examinations, whether or
5 not -- whether or not those swine or those meat will be
6 wholesome and not adulterated.

7 JUSTICE BREYER: I didn't see your argument
8 and now I see it. Okay. So I understand where you're
9 going.

10 But then if I look at Section 610 of the
11 act, it has a whole bunch of prohibitions, including
12 prohibitions and references to how you slaughter
13 animals, and including how you slaughter animals
14 humanely. So there how do you say that this provision
15 which talks about euthanizing an animal that you look
16 around and is lying down, how is that not within the
17 scope of the act? I'm not saying that they have that
18 particular thing, but the subject matter, slaughtering
19 animals, indeed humanely, is something the act
20 absolutely deals with.

21 MS. SMITH: It -- As I mentioned earlier,
22 it's certainly part of the operations. Euthanization
23 is --

24 JUSTICE BREYER: No, I didn't say that. I
25 said yes, it's part of the operations, but also it's the

1 subject matter with which the act deals. The act deals
2 with the humane slaughter of animals and other forms of
3 slaughter of humane -- of animals. So how -- how is --
4 So I repeat my question.

5 MS. SMITH: It deals with animals in
6 connection with slaughter and that will be slaughtered,
7 and so to the extent that that -- that slaughter is seen
8 as an animal that is going towards the meat supply
9 system, as opposed to one that's condemned and being
10 killed and not -- not --

11 JUSTICE BREYER: Okay. I -- You see, I --

12 JUSTICE SCALIA: I don't think that's what
13 within the scope means. The preemption provision here
14 in the statute has two provisions. The first one which
15 is the one we are talking about says requirements within
16 the scope of this chapter with respect to premises,
17 facilities and operations which are in addition to or
18 different than those made under this chapter may not be
19 imposed.

20 That's the first one, okay? Requirements
21 within the scope with respect to premises, facilities.

22 Now the second preemption provision reads:
23 "marking, labeling, packaging or ingredient requirements
24 in addition to or different than those made under this
25 chapter." Now, I -- I read the difference between those

1 two being, under number two it has to be different from
2 something that has been made, whereas under number one
3 it just has to be different from anything that could
4 have been made under this chapter.

5 It's within the scope of the chapter. It's
6 within the Secretary's authority to prescribe under this
7 chapter. I think that's what Congress meant by the
8 difference between requirements within the scope and in
9 number two, "in addition to or different than those
10 made," and that to my mind is -- is a much more
11 plausible explanation of "within the scope" than, you
12 know, it's directed to the purpose of -- of the statute.

13 I don't think within the scope has anything
14 to do with the purpose. It has to do with whether the
15 Secretary is authorized to act in this field under the
16 chapter.

17 MS. SMITH: And as -- as I mentioned, the
18 Secretary is given in several -- several different
19 points authority to act under this chapter, and the
20 Secretary's authority is -- is circumscribed to making
21 sure that meat is not adulterated and setting up
22 inspections --

23 JUSTICE SOTOMAYOR: I'm sorry; you're not
24 seriously arguing that the Secretary couldn't regulate
25 in the manner California has? That the Secretary is

1 powerless under this Act to say you can't slaughter
2 animals that can't walk?

3 MS. SMITH: No. The Secretary has done --

4 JUSTICE SOTOMAYOR: The Secretary could do
5 that?

6 MS. SMITH: Yes. The Secretary -- yes.

7 JUSTICE GINSBURG: Because that would be a
8 requirement? Is that -- is that -- do you rely heavily
9 on -- on the distinction between a requirement and
10 something that's merely permissive?

11 MS. SMITH: No, we don't. Our -- our focus
12 is on -- on the scope of the act and not on
13 requirements. We -- we concede that the -- that
14 California statute is setting out requirements, the
15 requirements in the penal code dealing with animal
16 cruelty in -- in areas traditionally regulated by the
17 State. So we -- we do not dispute that the -- the
18 provisions in the State law are requirements.

19 JUSTICE KAGAN: But suppose, Ms. Smith, you
20 decided that the Secretary was not doing a good job in
21 terms of inspecting for disease. So I guess that there
22 is some disease called diamond skin disease which
23 affects a lot of pigs, and you just thought that the
24 inspection standards were far too lenient; and you said,
25 okay we are not going to allow pigs with diamond skin

1 disease to be slaughtered. Under your theory you could
2 do that, too, isn't that right?

3 MS. SMITH: Yes, we could because we would
4 be categorically withdrawing the animal from -- from the
5 process. I want to be clear, though, we are not -- with
6 this law we are not setting up an inspection and
7 examination process. It's -- this provision is in the
8 penal code. It's an animal -- it's within the animal
9 cruelty statutes. It is not an attempt to --

10 JUSTICE KAGAN: But in fact it requires a
11 parallel inspection system. It's trying to do the exact
12 same thing that the Secretary is trying to do, which is
13 trying to remove animals with a certain kind of disease,
14 and it requires an inspection system of its own.

15 MS. SMITH: In our -- our case or your
16 hypothetical?

17 JUSTICE KAGAN: In my hypothetical case.

18 MS. SMITH: In your hypothetical --

19 JUSTICE KAGAN: And then I think that the
20 cases seem similar to make.

21 MS. SMITH: Well, it -- it would not be
22 expressly preempted, the hypothetical that you have
23 given me because we are withdrawing these animals within
24 the scope of the Act. There may be questions about
25 conflict preemption in that -- in that example, but with

1 respect to what we are doing, what the California
2 provision is doing there, it's not setting up a parallel
3 provision. It's not trying to set up a --

4 JUSTICE SCALIA: The other argument is that
5 it is within the scope of the Act because it is
6 preeminently something that the Secretary is authorized
7 to regulate, this nefarious diamond skin disease which
8 we are all familiar with. It's within the scope of the
9 Act, because he could act and indeed is -- is told to
10 act to prevent stuff like that. And that's why it's
11 within the scope of the Act for California to do
12 something in addition to what he has chosen to do.

13 And that's why there is a difference between
14 one and two, requirements within the scope, and
15 marketing labeling and packaging requirements in
16 addition to or different from those made. This one
17 isn't made but it is within the scope of what the
18 Secretary could make, and therefore California should
19 butt out.

20 MS. SMITH: Let me be precise about -- if
21 one saw, if one saw that -- that paragraphs (b) and (c)
22 of the California law were within the scope, there is
23 still an argument that they have to be with -- part of
24 the operations, the premises, facilities and operations.
25 And certainly with respect to requirement (a), the

1 buying, selling and the sale of meat, those are not
2 necessarily operations; and we do dispute the -- the
3 factual assertion that's been made that all purchasing
4 happens on the -- on the slaughterhouse grounds. There
5 is no -- no factual record of that in the -- in the
6 lower record. We have no way to dispute that because it
7 was not -- it was not litigated.

8 JUSTICE SCALIA: Suppose I agree with you on
9 that but don't agree with you -- or least I'm dubitante
10 on that and -- and disagree with you on the rest. What
11 do I do?

12 MS. SMITH: We believe the -- the law could
13 or would be severable. In the Ninth Circuit the
14 preliminary injunction went to all provisions except for
15 subparagraph (e). We would -- have to litigate
16 severability, of course, but we do think that it would
17 be severable, and it seems that the Ninth --

18 CHIEF JUSTICE ROBERTS: What -- what purpose
19 does the ban on buying and selling have, other than to
20 implement the restrictions that go to operations?

21 MS. SMITH: Well, the purpose of the
22 California law is twofold. One, general public health,
23 but there is also a very strong component of prohibiting
24 animal cruelty; and so prohibiting the purchase, buying,
25 selling or the sale of meat --

1 CHIEF JUSTICE ROBERTS: But that -- that
2 seems to me to be the answer, that no, it doesn't have
3 anything else to do because the animal cruelty that
4 you're concerned about takes place on the premises as a
5 result of the operations. And so you prohibit the
6 buying and selling of an animal that wasn't treated the
7 way you think it should be treated, to give effect to
8 your views on how it should or should not be treated
9 which seems to be expressly preempted.

10 MS. SMITH: Well, not necessarily, because
11 the law -- if we look at the entire California penal
12 code section it's dealing not just with slaughterhouses.
13 So it is trying to deal with a comprehensive problem
14 that it sees with respect to nonambulatory animals, not
15 just at the slaughterhouse but at other market agencies,
16 etcetera -- and livestock agencies and so -- so the
17 focus on purchasing, buying, receipt, selling of the
18 meat is to prohibit and -- and stop the -- the commerce
19 in nonambulatory animals.

20 And -- and California's purpose there as I
21 said was twofold, to one, protect general public health
22 but also to prohibit animal cruelty in an area where --
23 where California legislators were concerned about the
24 humane treatment of nonambulatory animals, not -- not
25 just swine because the law is broader than that, but

1 that's what's at issue here today.

2 CHIEF JUSTICE ROBERTS: What does it include
3 besides swine?

4 MS. SMITH: It includes cattle, sheep, goats
5 and swine, and the preliminary injunction was brought --

6 CHIEF JUSTICE ROBERTS: But those are --
7 those all go through slaughterhouses?

8 MS. SMITH: They do. They do. And --

9 CHIEF JUSTICE ROBERTS: Thank you, counsel.
10 Mr. Wells, you have 4 minutes remaining.

11 REBUTTAL ARGUMENT OF STEVEN J. WELLS

12 ON BEHALF OF THE PETITIONER

13 MR. WELLS: Thank you. I just have a couple
14 of quick points to make. One is that the Secretary has
15 interpreted the -- section 602 and section 603 and
16 section 604 to require that all animals be handled, all
17 animals on the premises be handled humanely and that all
18 animals be subject to the regulations under the chapter.
19 That's set forth in 9 CFR 302.3 and it's also set forth
20 in the Secretary's directives, it's directive 6100 at
21 appendix at 47.

22 So the Secretary does not make a distinction
23 in implementing section 602 through 604 between animals
24 that the State may choose to try to categorically
25 remove. It applies to all animals, and that is critical

1 because a State -- a slaughterhouse worker who is on the
2 premises needs to have one set of rules that the worker
3 follows so that the worker knows that if he follows the
4 advice of a Federal inspector and, for example, puts a
5 nonambulatory animal -- separates the animal, put --
6 puts it in a covered pen and it -- lets it go through
7 the ante-mortem inspection that it's required to have
8 under Federal law, that the slaughterhouse worker won't
9 go to jail.

10 And that's why it's critical that -- to
11 Congress -- that was critical to Congress that we had
12 this uniformity and I think it's critical that this
13 Court find preemption on this case, because otherwise
14 Federal law will appear and disappear, apparently based
15 on when the State believes that it's removing animals
16 from -- in connection with slaughter, whenever that
17 would occur.

18 Just one other point and that is, it is also
19 crystal clear that the Human Methods of Slaughter Act of
20 1978 incorporated the standards of humane treatment that
21 were included in the Human Methods of Slaughter Act of
22 1958, and it isn't just the preamble to that public law
23 that indicates that.

24 Those requirements are found now in 21
25 U.S.C. section 603(b) and they are backed up by

1 prohibitions which are backed up by criminal penalties
2 in section -- in 21 U.S.C. section 610 -- yes, 610(b).

3 And if the Court has no more questions, I'll
4 conclude my remarks.

5 CHIEF JUSTICE ROBERTS: Thank you counsel,
6 counsel.

7 MR. WELLS: Thank you.

8 CHIEF JUSTICE ROBERTS: The case is
9 submitted.

10 (Whereupon, at 11:04 a.m., the case in the
11 above-entitled matter was submitted.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

A				
abattoir 18:11	addresses 4:3	29:20,22 31:13	ante 32:6	49:23 52:11
able 23:11 37:3	adds 13:2	32:23 33:1,3,7	ante-mortem	arrive 5:17 8:22
above-entitled	admitted 9:11	33:9 35:2,6,13	35:18 36:18,22	43:2
1:12 54:11	adulterated	36:17,19,22	37:1 53:7	articulate 24:15
absolutely 6:1	12:20 13:8,10	38:11,23 44:15	apart 4:14,23	aspects 25:19
22:2,14 44:20	13:20 42:25	45:8 47:15 48:4	apparent 32:24	assert 20:4
accept 21:15,15	43:8,9,11,17	48:8,8 50:24	32:25	assertion 50:3
43:3	44:6 46:21	51:3,6,22 53:5	apparently 53:14	Assistant 1:18
accepting 21:9	advice 53:4	53:5	appear 53:14	Association 1:3
accurate 14:11	affect 8:15	animals 3:18,21	APPEARANC...	3:5
act 7:24 9:1,23	affirm 25:14	3:24 4:25 5:17	1:15	assume 23:3
19:19 20:9	agencies 51:15	7:23 8:17,20,20	appendix 21:22	25:1
23:16 28:1,16	51:16	9:12 10:16	52:21	assumed 41:17
28:16,17,18	agree 4:11 6:18	11:10,14 12:5	applicability 22:3	assuming 9:6
29:3,7 30:16,20	26:22,23 50:8,9	14:2,14,16,23	application 22:4	43:16
30:23,23 31:7,8	aims 20:15	15:1,13 16:13	22:15	assumption
31:9,11,12,16	airplanes 41:18	17:2,3 19:16	applied 5:21	14:19
31:20,21,25	AL 1:7	20:4,10,14,20	31:21	attempt 31:13
33:15 35:25	Alito 7:18 8:3,25	20:24 21:21	applies 15:21	48:9
36:16 38:23,25	9:15,19,25 14:1	24:24 26:18	30:14 31:2,4,17	attempted 4:20
39:7,10 40:6	14:13,25 17:19	28:8,15,18,22	52:25	Attorney 1:6,22
41:13,17,19,20	19:13 20:12	29:3,8,11,13	apply 11:21 12:5	auction 4:14 16:9
41:25 42:1,8,10	21:4,12	29:13,14,15	12:6,9,13 18:19	authority 20:7
42:11,12,14,20	allow 47:25	30:1,2,3,5,16	19:19,23 22:5	39:1 43:5,6,10
43:12 44:2,11	allows 3:23 40:3	30:18,18 31:5,5	29:19 30:12,16	43:13 44:1 46:6
44:17,19 45:1,1	altogether 3:25	31:22,24 32:8	30:17	46:19,20
46:15,19 47:1	ambulatory 36:5	32:17,20 33:16	applying 22:11	authorized 46:15
47:12 48:24	36:24 37:4	33:23 35:22	22:13	49:6
49:5,9,9,10,11	amenable 7:9,14	36:13,24 37:4,8	appropriately	aware 22:25
53:19,21	7:15,17,20,23	37:10 38:1,18	24:14	awful 24:2
action 33:12,14	10:3,16 16:14	39:8,12,17,18	approved 13:21	a.m 1:14 3:2
add 42:16	amended 29:7	39:20 40:9,13	approximately	54:10
adding 22:12	amendment 7:24	41:22 42:25	14:6	
addition 3:20	amends 30:23,23	44:2,3,13,13	area 16:8 51:22	
12:25 34:6	amicus 1:20 2:7	44:19 45:2,3,5	areas 47:16	
42:17 45:17,24	18:5 36:12	47:2 48:13,23	argue 27:4,6	
46:9 49:12,16	analyze 26:3,5	51:14,19,24	36:4,7	
additional 14:12	Angeles 1:23	52:16,17,18,23	arguing 46:24	
22:12 34:12	animal 3:12 9:20	52:25 53:15	argument 1:13	
38:7,12,13 39:9	11:7 13:3,5,25	animal's 35:19	2:2,5,9,12 3:3,7	b 49:21
39:12,15 41:8	15:21 16:18,21	answer 5:15 7:8	5:25 6:4,6 12:9	back 27:4
41:10,11	18:10,13 19:2,6	14:10 24:9,12	12:14,16,17	backed 53:25
address 9:12	19:9,14 22:8	24:15 27:10,12	18:4 23:3 27:20	54:1
18:25	23:10 25:7	34:17 51:2	32:13 34:15	background
	26:24 28:23	answers 26:21	40:5 44:7 49:4	24:25
				ban 25:4 50:19
				bans 3:24
				based 9:19 39:8
				43:3 53:14
				basically 15:23

43:18	46:25 47:14	54:5,8	condemned	25:20 27:18
begins 14:15	49:1,11,18,22	choose 52:24	28:24 30:1,1,7	52:9 54:5,6
behalf 1:17,23	50:22 51:11,23	chosen 20:13	45:9	couple 52:13
2:4,11,14 3:8	California's	49:12	condition 13:2,23	course 18:14
27:21 52:12	34:20 51:20	circuit 8:3,4	15:8	20:21 23:15
believe 5:7 8:7	call 11:14	10:19 37:12	conditions 13:22	50:16
10:14 50:12	called 47:22	38:5,5 50:13	conduct 22:9,12	court 1:1,13 3:10
believes 53:15	carcass 43:8,8	Circuits 8:9	22:13	6:6 8:13 18:8
benefit 35:24	carcasses 39:19	circumscribed	conflict 38:3,4,6	24:14 25:16,18
BENJAMIN	carrying 35:13	46:20	38:8,15 41:5,6	26:9 27:23
1:18 2:6 18:4	case 3:4 14:1	circumstance	48:25	53:13 54:3
BREYER 23:22	15:14,14 24:13	5:12	Congress 3:11	courts 24:17
24:10 25:25	25:11 32:11	clause 21:24	9:24 10:1,2,7,8	Court's 18:22
26:22 27:7	33:24 38:4	30:21,24 31:2	10:11,16 11:19	cover 24:2
33:24 41:14	48:15,17 53:13	31:10 39:24	11:19 20:13	covered 9:13
42:9,15 44:7,24	54:8,10	clear 21:1,20	46:7 53:11,11	53:6
45:11	cases 8:12 48:20	22:6 37:20 48:5	connection 29:13	cow 34:2,10,12
brief 7:25 9:11	categorically	53:19	31:6,22 45:6	create 16:23
14:4	48:4 52:24	clearly 6:19 7:25	53:16	criminal 54:1
broader 42:23	categories 37:8	9:9,9 25:5	consideration	critical 52:25
51:25	37:9,25	closer 6:9	18:18	53:10,11,12
brought 11:9	catfish 7:22	code 47:15 48:8	considered 40:2	cruelty 22:8
52:5	cats 6:25 7:1,8	51:12	consummated	31:13 47:16
bunch 44:11	7:17 10:7 40:7	coextensive	5:14	48:9 50:24 51:3
burned 39:19	cattle 8:2 52:4	22:19	consumption 7:4	51:22
butt 49:19	certain 37:8,9	come 14:10	28:9 32:16,20	crystal 53:19
buy 5:2 19:10	48:13	comes 13:24	contagion 36:10	curiae 1:20 2:7
24:1,2	certainly 34:18	24:13 35:8	contagious 35:12	18:5
buying 24:21	35:23 44:22	coming 18:15	36:5	currently 17:14
25:4 50:1,19,24	49:25	commands 33:11	contend 4:3	
51:6,17	CFR 52:19	33:14	continue 3:16	D
C	chapter 37:11	commerce 51:18	33:9	D 1:6 3:1
c 2:1 3:1 49:21	39:25 40:2	committed 19:24	contract 4:2,22	dead 12:4
California 1:7,23	45:16,18,25	component 50:23	4:23 5:2,3,5,14	deal 16:16 25:6
3:14,17,24 4:3	46:4,5,7,16,19	comprehensive	5:17	32:15 51:13
4:18 9:16 13:17	52:18	51:13	correct 6:6 10:8	dealing 28:7
15:11,20 23:17	characteristic	concede 34:25	10:19 12:2	29:25 35:2
26:14 27:17	32:25	47:13	14:21 29:2	36:12 42:24,25
28:14 29:15	check 17:1	concern 12:12	30:25 31:19	43:7 47:15
32:9 33:1,6,11	Chief 3:3,9 12:8	25:17,18,21	32:9 35:5 39:11	51:12
33:16,17 35:2	13:6,12 18:2,7	concerned 11:24	40:11,20,21	deals 29:13
36:21 37:7,23	27:11,18,22	28:18 51:4,23	43:25	44:20 45:1,1,5
37:25 38:12,17	32:1,12 40:5,12	conclude 54:4	corrected 25:22	decide 8:11
39:5,13,13	40:21 50:18	conclusive 23:9	correctly 8:13	25:11 33:8
	51:1 52:2,6,9	concrete 19:5	counsel 18:2	decided 8:12

47:20 decides 29:20 35:12 decisions 37:25 declared 37:2 deemed 35:3 define 42:21 defined 7:15 17:16 43:3 defines 28:5 definition 7:18 7:19,20 28:11 32:21 Department 1:19 Deputy 1:22 designed 32:15 destroyed 35:14 determination 44:4 determinations 3:13 determine 20:10 29:4 35:19 determined 20:3 diamond 47:22 47:25 49:7 die 14:6 difference 10:20 15:2,7 40:15 45:25 46:8 49:13 differences 23:5 different 3:19 9:25,25 10:5 12:15,16,25 13:23 18:14,20 21:16 22:11 23:12 24:16 26:2,3 34:7 45:18,24 46:1,3 46:9,18 49:16 differently 26:5 difficult 14:25 directed 6:21 46:12	directive 52:20 directives 52:20 directly 9:13 12:23 16:16 disagree 9:8 20:18,18 50:10 disappear 53:14 disease 35:13 37:2 47:21,22 47:22 48:1,13 49:7 diseased 12:5 diseases 35:11 35:22 36:4,11 36:13 37:3,19 37:24 38:10,12 39:4 disposed 39:19 disposition 23:7 dispute 14:4,13 21:12,13,14 47:17 50:2,6 disqualify 38:10 38:13 39:3,4 distinction 30:5 35:17 36:2 47:9 52:22 diverges 33:6 Dobbin 10:13 dogs 6:25 7:1,8 7:17 10:7 40:7 doing 24:10 25:4 37:20,21 47:20 49:1,2 doors 14:20 drawing 36:2 drawn 21:17 dressed 30:3 dubitante 50:9 dying 12:5 D.C 1:9,19 <hr/> E <hr/> e 2:1 3:1,1 50:15 earlier 11:2	44:21 ease 10:20 easily 37:17 easy 8:18 edible 30:6 effect 7:13 16:6 51:7 effecting 43:16 effort 26:15 either 25:14 employee 19:9 enables 39:3 enact 23:19 enacted 3:17 11:20 encompasses 6:18 ended 24:4 ends 4:18 enforced 22:20 ensure 22:19 36:9 enter 17:8 entering 18:11 enters 17:20 entire 29:2 36:5 51:11 entitled 37:8 entrance 21:25 envisioned 20:2 envisions 23:16 ESQ 1:16,18,22 2:3,6,10,13 essentially 12:20 17:9 20:3,5 established 13:16,17 establishment 21:21 establishment's 21:2 ET 1:7 etcetera 51:16 euthanization 34:19,25 44:22	euthanize 19:12 26:18 33:3,11 34:10,11 euthanized 34:4 euthanizing 44:15 eventually 29:1 33:10 44:3 exact 34:6 40:22 48:11 exactly 16:20 25:25 33:5 examination 48:7 examinations 44:4 examine 29:3 example 19:21 22:10 48:25 53:4 excludable 37:18 exclude 37:9,10 37:13,14,19 excluded 10:7 37:23 exclusively 19:24 42:22 excuse 23:4 27:25 32:11 35:3 exists 25:1 explain 28:11 explanation 46:11 exposed 30:11 express 5:25 31:10 38:1,9,15 39:24 41:7 expressly 4:20 5:8,20 6:8 17:18,22 34:21 37:24 38:2,16 48:22 51:9 extend 20:7,8 extends 21:20	extent 4:8 10:4 19:23 22:4,9 30:17 31:16 35:20 45:7 extra 42:2,2 extreme 18:24 <hr/> F <hr/> facilities 28:2 40:1 42:19 45:17,21 49:24 facility 16:23,25 17:1 30:3 34:1 34:8,14 fact 14:13 41:9 48:10 factual 50:3,5 fair 14:18 familiar 49:8 far 11:23 32:11 47:24 farmer 11:15,16 fascinating 16:8 Federal 3:20,22 5:10 7:12 9:1 9:14,23 12:3,3 13:15,16,19 15:12,15 16:13 16:16,18,19 18:21 19:14,17 19:18 20:9,12 21:18 22:10,13 22:21,22 23:6,8 23:21 25:9 28:7 28:16,21,22 29:18,25 30:15 31:7,9,20,25 32:3,14,15 33:6 33:7,12,18 34:7 34:8,9 35:5,8 35:16,24 36:25 37:21 38:9,22 38:25 39:4,7 40:4,16,18,24 41:1 42:1 53:4
--	--	--	---	---

53:8,14 Federalize 31:13 Federally 3:14 4:10 7:10 17:14 23:2 34:1,14 field 46:15 Fifth 8:9 fighting 35:15 figure 43:19 find 25:18 37:3,3 53:13 finds 35:8,21 43:17 first 3:4 19:3 45:14,20 fitness 23:9 fits 27:15 32:21 flip 40:22 floor 26:25 FMIA 4:17 12:23 17:15 19:22 20:19 21:1,17,20 22:5 focus 43:10,25 47:11 51:17 focused 44:2 follow 13:7 followed 3:24 following 10:2 23:20 follows 53:3,3 food 9:5,21 16:15 26:18 43:9 footnote 7:25 forbidden 34:5 forbids 11:25 forget 8:4 form 48:4 forms 45:2 forth 7:24 13:23 52:19,19 found 12:19 38:5 53:24 frankly 7:21 free 37:2	free-floating 24:22 front 12:9,13 further 17:16,25 <hr/> G <hr/> G 3:1 gate 3:16 4:17 5:7,18 gates 11:10 18:17 general 1:6,19 1:22 6:9 16:14 22:3 23:1,2 50:22 51:21 generally 14:14 23:7 Ginsburg 21:23 22:2 47:7 Ginsburg's 23:24 give 27:11 51:7 given 6:3 39:1 43:6,13 46:18 48:23 go 17:3 22:18 23:2 25:11 33:9 34:4,10,11 50:20 52:7 53:6 53:9 goats 52:4 goes 12:11,23 17:17 18:10,15 20:23 36:19 going 10:16 28:15,18 30:13 30:16 31:24 32:2,8 36:23 37:4 39:12,12 41:15,23 43:19 43:20,21 44:9 45:8 47:25 good 10:10 29:10 47:20 govern 3:12 12:4 governing 34:7	government 12:17 13:16 16:13 27:3 40:4 43:18 government's 22:7 32:19 grant 13:13 grounds 50:4 guess 10:24 11:12 25:19 47:21 <hr/> H <hr/> handle 18:13 handled 52:16,17 handling 3:12,20 9:12 18:18 19:23 20:20 happen 13:22 happens 5:6 43:1 43:24 50:4 hard 36:1 Harris 1:6 3:5 health 50:22 51:21 hear 3:3 heard 18:9 heavily 47:8 herd 35:23 history 28:17 31:12 hold 9:1 19:10 Honor 4:5 5:5,22 6:1,16 7:3,20 8:7 9:9 10:15 11:19 12:7,14 14:9,19 15:7 16:3,11 17:6,23 34:18 35:18 37:22 Honor's 17:11 horse 7:1 8:18 10:21,21,22 15:4,14,14 horses 6:25 7:1	8:1,6 9:3,17 15:2,3,15,17 37:13,18 40:7 Horwich 1:18 2:6 18:3,4,7 19:17 20:17 21:9,14 22:2,25 24:7,12 25:16 26:8,13 27:5,9,13 houses 16:9 human 28:8 53:19,21 humane 9:6,12 18:18 19:15,23 29:7,10,12,19 30:20 31:2,4,8 31:11,17,20 45:2,3 51:24 53:20 humanely 44:14 44:19 52:17 humans 36:14 hypothetical 17:12 19:7 20:2 21:10 48:16,17 48:18,22 hypothetically 24:11 <hr/> I <hr/> idea 31:14 identification 10:21 identified 10:1 identify 8:18 11:1 15:1 immediately 17:10,13 19:12 26:18 33:2 34:4 34:10,11 immunity 16:8 implement 23:18 26:15,16 50:20 implementing 26:20 27:16	52:23 implied 5:11 6:4 17:23 imposed 45:19 include 38:23 52:2 included 53:21 includes 7:25 8:1 8:1,2 52:4 including 44:11 44:13 incorporated 31:9,16 53:20 incorrect 8:5,8 indicates 53:23 industry 16:5 ingredient 45:23 inhumane 20:14 injunction 20:21 24:14,18,20 25:15,19,21 50:14 52:5 injure 30:12 inspect 21:5 29:3 inspected 3:14 4:10 7:10 10:3 17:14 23:2 34:1 34:14 inspecting 47:21 inspection 3:13 7:10 9:1,23 13:21 17:7,13 19:18 20:4,9 21:10 23:19 28:16 30:16 31:7,9,20,25 32:4,7,7,10 35:10,19,21,25 36:3,18,22 37:1 38:23,25 47:24 48:6,11,14 53:7 inspections 23:16 43:22 44:4 46:22 inspector 22:21
--	---	---	---	---

34:1 35:8,12 37:1 53:4 inspectors 22:18 23:1,20 instance 30:1 31:14 instruments 30:12 intended 3:19 5:22 9:11 interest 24:23 interested 24:24 interfere 5:6 32:14 interpret 8:14,16 interpreted 8:24 15:11 17:9 19:19,22 52:15 intrastate-only 23:18 introduce 22:5 involved 6:11 issue 9:2,9 24:8 52:1 issued 25:15 issues 5:11,21 9:10 17:24	9:15,19,25 10:6 10:9,13,18 11:12,16,23 12:8 13:6,12 14:1,13,25 15:18,19 16:7 16:22 17:19 18:2,7 19:13 20:2,12 21:4,12 21:23 22:2,17 23:22,24 24:10 25:10,25,25 26:10,22 27:7 27:11,14,18,22 28:5,10,20 29:6 29:18 30:8,10 30:22 31:1,15 32:1,12 33:5,18 33:24 35:4 36:1 37:6 38:7,19 39:2,9,14 40:5 40:12,21 41:4 41:14 42:9,15 42:21 43:15 44:7,24 45:11 45:12 46:23 47:4,7,19 48:10 48:17,19 49:4 50:8,18 51:1 52:2,6,9 54:5,8	KENNEDY 22:17 kick 3:15 kill 26:25 killed 30:2,9 45:10 kind 7:20 18:23 35:7 41:19 48:13 kinds 37:19 Kitty 10:10 know 14:10,23 26:6 32:2,21 34:16 37:16 38:8,14,20 41:9 46:12 knowledge 14:11 knows 11:7 53:3	41:1 47:18 48:6 49:22 50:12,22 51:11,25 53:8 53:14,22 laws 8:14,15,16 19:17 22:3,19 32:14,15 lead 24:16 leave 25:22 left 27:6 legislative 28:17 31:12 legislators 51:23 lenient 47:24 let's 16:3,24 23:3 limitation 13:12 39:20 43:3 limited 31:24 38:24 limits 39:3 line 17:10 21:17 litigate 50:15 litigated 38:4 50:7 little 12:15 25:12 livestock 51:16 logically 13:7,7 long 5:3,4,4,5 13:4,9 23:20 look 21:22 24:20 33:8,24 34:2 44:10,15 51:11 looked 13:3 looks 42:7 43:5 Los 1:22 lose 42:6 lot 24:2 35:13 36:5 47:23 lower 24:17 50:6 lying 34:2 44:16	34:16 43:7,10 44:3 46:20 mandates 28:6 manner 6:12 46:25 margins 18:24 market 51:15 marketing 28:8 49:15 marking 45:23 matter 1:12 19:4 23:3 41:19,20 42:5,6,8 44:18 45:1 54:11 mean 4:23 7:21 13:9 16:12,22 17:9 21:24 22:3 24:2 29:18 31:16 32:12 38:20 40:18 41:23 42:4,4,9 42:23 means 41:17 42:2,5,5 45:13 meant 46:7 meat 1:3 3:4,13 3:16 6:8,10,15 9:1,4,23 12:20 12:21 13:3,4,8 13:9,17,18,20 13:24 19:11,18 20:11 23:10 27:15 28:8,15 28:16,19,22 29:1,4,9,17,21 30:4,6,13,15 30:17 31:7,9,20 31:25,25 32:2,9 32:15,20 33:3 33:10,17,19,21 34:1,13 35:20 35:25 36:9,17 36:19,23 37:5 38:11,23,25 39:13,17,21
J J 1:16,18 2:3,6 2:13 3:7 18:4 52:11 jail 53:9 job 47:20 judgment 9:20 9:20,25 10:2,5 10:11,15 22:21 23:6,9,12 jurisdiction 20:4 Justice 1:19 3:3 3:9 4:1,6,7,13 4:16,22 5:9,13 5:16,16,24 6:3 6:7,14,24 7:4,6 7:12,18 8:3,25	K K 1:22 2:10 27:20 Kagan 4:13,16 5:16 10:18 15:18 16:22 20:2 28:20 33:5 33:18 37:6 47:19 48:10,17 48:19 KAMALA 1:6 keep 8:17,19 10:22 15:15 38:19	L labeling 45:23 49:15 language 17:6 29:24 31:11 38:25 40:3 large 21:2 Lassie 10:9,9 Laughter 26:7 26:12 law 3:22,24 4:3 5:10,22,22 6:10 6:25 8:10,23 9:11,16,16 11:24 13:19 15:10,11 16:6 16:23,24 19:10 19:15 20:15,19 21:18 22:10,13 22:15,22,23 23:25 24:25 27:25 28:7 31:13 32:9,22 34:3,9,10,12 36:25 39:4 40:15,16,18,24	M Maine 3:15 majority 25:24 making 10:5	

40:7,10,16 41:2 43:8,8,11,17 43:23 44:3,5 45:8 46:21 50:1 50:25 51:18 meatpacking 34:8,14 mentioned 44:21 46:17 mentions 7:21,21 merely 42:24 47:10 method 14:3 28:7 methods 9:6 30:20 31:8,11 31:20 53:19,21 mind 46:10 minimum 23:21 Minneapolis 1:16 Minnesota 1:16 minute 43:1,2 minutes 52:10 mistaking 22:7 misunderstand... 35:6 moral 10:2,5,11 10:15,15 morning 3:4 18:9 18:22 mortem 32:7 move 11:11	Ninth 38:5,5 50:13,17 nonambulatory 3:18,21 5:1 8:20,20 10:23 10:24,25 11:3,4 11:4,5,8,17 12:1 13:3,5,25 14:2,2,7,15,16 14:17,20,22,24 15:1,9,13,21 16:13 17:2 18:16 19:2,6 28:23 29:15 32:19,24 33:2 33:23 36:6,21 37:14,17 38:1 40:9 51:14,19 51:24 53:5 nonambulator... 8:21 non-State 14:4 November 1:10 number 46:1,2,9	once 21:25 29:19 ones 10:17 30:6 37:4 one-sentence 27:12 onion 25:11 open 11:10 18:17 opened 14:21 operate 8:24 operation 12:24 34:19 operational 4:12 6:21 18:18 operations 6:11 6:17,23 8:15 24:3 27:1 28:3 28:4 34:8,13,23 35:1 39:16,16 39:18 40:1 42:19 44:22,25 45:17 49:24,24 50:2,20 51:5 operator 11:7 opinion 26:2,4 opportunity 23:17 24:8 opposed 45:9 oral 1:12 2:2,5,9 3:7 18:4 27:20 ordained 3:11 order 25:11 27:24 outset 33:16 outside 7:11 17:13 37:8	49:2 part 4:12 6:23 19:22 26:4 33:3 33:17,19,21 35:1,3,24 39:23 43:8 44:22,25 49:23 particular 22:4 25:14 38:4 42:11 44:18 particulars 24:17 parties 4:11 6:18 parts 24:1 27:8,8 pass 5:5 13:20 16:9,23 24:23 passed 35:22 36:13 passes 16:4,17 peel 25:10 pen 20:6 36:24 53:6 penal 47:15 48:8 51:11 penalties 54:1 pens 19:24 people 11:14 34:16 permissive 47:10 person 4:25 15:24 pertain 39:16,18 Petitioner 1:4,17 1:21 2:4,8,14 3:8 18:6 25:23 52:12 Petitioners 20:22 Petitioner's 25:20 32:18 pick 26:24 pieces 25:3 pig 15:4,4 18:15 pigs 14:19 47:23 47:25 place 4:14 51:4 plants 23:18	plausible 46:11 please 3:10 6:7 18:8 27:23 point 12:3 18:12 19:14 24:19 27:6 32:13 36:15 53:18 points 27:10 36:11 46:19 52:14 poor 29:22 position 5:13 15:23 22:7 32:19 possible 10:23 15:18 post-mortem 32:3,7,10 power 42:22 powerless 47:1 practical 6:17,19 6:20,20 19:4 21:8 practice 14:22 preamble 53:22 precise 49:20 preclude 11:24 preeminently 49:6 preempted 4:4 4:20 5:8,15,19 5:20 6:8,15 7:6 16:6 17:18,23 20:16,21 22:8 27:24 34:21 37:23,24 38:2 38:16 48:22 51:9 preemption 5:11 5:21,25 17:24 30:21,23 31:2 31:10 38:3,4,6 38:8,9,15,15 39:24 41:5,6,7 45:13,22 48:25
<hr/> N <hr/> N 2:1,1 3:1 National 1:3 3:4 nationwide 14:5 necessarily 50:2 51:10 necessary 33:12 needs 20:7,8 53:2 nefarious 49:7 never 8:15 news 6:22	<hr/> O <hr/> O 2:1 3:1 objective 20:15 obligations 43:16 obvious 34:15,17 obviously 8:2 occur 17:7 36:19 53:17 occurred 4:21 occurs 4:11 5:17 15:23 33:25 35:10 official 21:2 22:22 23:11 officials 23:1,14 23:15 okay 5:9 15:20 17:21 22:22,23 44:8 45:11,20 47:25	<hr/> P <hr/> P 3:1 pack 34:14 packaging 45:23 49:15 page 2:2 9:11 paragraphs 49:21 parallel 48:11		

53:13 preempts 40:24 preliminary 24:13 25:15 50:14 52:5 premise 21:9,15 21:15 24:8 premises 5:3,7 5:15 6:12 8:17 8:19,21,23 10:4 11:6,9 15:9,22 15:24 16:1,4,18 19:7 20:25 21:3 21:21 22:15,18 23:2 25:7 28:2 38:24 39:25 42:18 45:16,21 49:24 51:4 52:17 53:2 prescribe 46:6 present 8:20 14:20 presents 15:9 18:16 23:5 presumably 10:6 prevent 4:20 20:14 49:10 pre-inspection 35:16,21 pre-mortem 36:3 principle 24:25 prior 7:23 probably 24:16 problem 51:13 problems 22:21 procedural 23:23 process 4:12 14:8,17 29:16 32:3 33:10 37:9 37:10 43:1,22 48:5,7 processed 29:8 31:22 processes 6:10 product 43:9	program 17:13 28:21,23 prohibit 8:6 32:5 51:5,18,22 prohibiting 15:2 50:23,24 prohibition 27:17 42:2 prohibitions 44:11,12 54:1 prohibits 9:17 properly 22:20 proposition 18:10 prosecuting 22:9 prosecutions 22:8 protect 51:21 protection 25:23 provide 23:7 provision 24:21 25:12 26:15 30:10 31:5 34:20,24,25 44:14 45:13,22 48:7 49:2,3 provisions 24:16 25:24 27:2,25 28:1,3,13 29:6 30:15,19 31:3 42:12 45:14 47:18 50:14 public 50:22 51:21 53:22 purchase 4:1,2,9 4:20,21,22,23 5:14,17 15:23 19:2 50:24 purchased 24:24 purchasing 50:3 51:17 purpose 20:8 28:16 29:3 35:15,18,24 36:2,16 40:3	42:22,23 43:4 43:12 44:2 46:12,14 50:18 50:21 51:20 purposes 9:22 19:15 pursuant 30:19 30:20 34:21 36:25 37:23 put 7:5 12:21 25:3 42:15 53:5 puts 53:4,6 putting 38:18 <hr/> Q qualified 41:12 42:18 quality 3:13 28:7 quarantined 35:14 quarrel 18:9 question 6:9 10:24 16:2,12 19:1,2,8 21:16 21:18 23:4,5,12 23:23 24:9,13 26:1,21 27:14 33:25 37:17,22 45:4 questions 17:25 18:22,25 38:3 48:24 54:3 quick 23:23 52:14 <hr/> R R 3:1 raised 6:5 raises 4:25 rancher 11:13,15 11:16,25 ranchers 14:14 rationale 8:9,10 8:13 reach 23:11	read 45:25 readily 32:24,25 reads 45:22 real 16:12 really 12:11 15:7 15:8 reason 4:7,8 8:11 35:10 REBUTTAL 2:12 52:11 receipt 3:23,23 3:24 4:11 43:20 51:17 receive 19:11 36:22,25 recognize 20:7 record 50:5,6 reference 31:20 31:21 referenced 30:18 36:12 references 39:24 44:12 refers 42:11 reflected 42:23 regard 20:19 24:20 regarding 3:18 3:20 19:18 regulate 4:19 19:15 20:13 46:24 49:7 regulated 12:10 47:16 regulating 12:18 24:24 28:14 29:15 regulation 4:19 7:13 12:11 13:1 19:3,3 20:23,24 22:1 25:9 35:5 41:20 regulations 11:20 12:4 16:16,19 23:6	23:19 29:25,25 30:4 38:10 41:16 42:2,24 52:18 regulatory 42:22 relevant 4:9 rely 47:8 remaining 18:1 52:10 remarks 54:4 remove 48:13 52:25 removing 53:15 repeat 45:4 require 29:7 34:9 34:11 52:16 required 32:8 33:22 53:7 requirement 12:22 13:16,18 13:19 18:20 26:16,20 33:2 34:6,13 38:8,14 39:6 41:10 47:8 47:9 49:25 requirements 3:22 12:18 18:19,21 29:19 34:7 38:18 39:10,12,15 41:8,12,25 42:12 45:15,20 45:23 46:8 47:13,14,15,18 49:14,15 53:24 requires 35:7 48:10,14 reserve 18:1 resolve 23:13 respect 4:9 7:8 11:22 12:17 14:19 15:13 20:19 22:17 24:21 28:2 31:5 31:7 32:16
--	--	---	--	--

34:13,22,24 39:15,25 40:13 42:18 45:16,21 49:1,25 51:14 Respondent 14:5 Respondents 1:23 2:11 14:5 27:21 rest 24:5 26:19 27:2 35:23 50:10 restrictions 50:20 result 51:5 reverse 25:14 right 5:2 6:2,13 10:13,14 12:1 13:10 17:13 24:5 26:13,25 28:10 29:23 31:18 34:3 39:2 40:16 41:14,15 48:2 rights 17:4 risk 36:10 ROBERTS 3:3 12:8 13:6,12 18:2 27:11,18 32:1,12 40:5,12 40:21 50:18 51:1 52:2,6,9 54:5,8 room 22:1,14 roundabout 7:20 routinely 22:18 rubric 27:16 rule 40:25 rules 3:12,15,18 3:18,20,23 32:4 32:6 53:2 <hr/> S <hr/> S 2:1 3:1 safety 9:5 sake 23:3	sale 3:13,16 4:18 5:7 6:8,9,15,16 6:19 12:17,18 13:17,18,20 27:15 38:13 43:21 50:1,25 sales 6:15,22 12:9,10,15,23 sanction 22:13 22:14 save 8:10 saved 21:24 savings 21:24 saw 49:21,21 saying 8:5 15:8 16:8 33:16 37:7 37:14 38:19 40:13,17,22 42:10,16 44:17 says 6:9,25 12:19 16:24,24 17:7 19:10 21:17 22:21,23 30:11 34:3 38:12 39:10,15 40:15,16,18,24 40:25 41:6,7,15 45:15 Scalia 4:1,6,7,22 5:9,16 10:6,9 10:13 11:12,16 11:23 25:10 26:10 29:6,18 30:8,10,22 31:1 31:15 38:7,19 39:2,9,14 41:4 45:12 49:4 50:8 Scalia's 26:1 scope 4:17 7:11 11:21 12:23 17:15 20:18 21:1,17,18,20 22:5 28:1,4,5,6 28:14,17 33:15 34:21,22 35:1	36:7,8,10 37:11 37:13,15 38:17 38:20,21,21,22 39:23,23,25 40:1,8 41:12,16 41:25 42:8,10 42:11,14,19,21 43:3,13,17,23 44:17 45:13,16 45:21 46:5,8,11 46:13 47:12 48:24 49:5,8,11 49:14,17,22 second 36:15 45:22 secretary 17:9 17:16 19:19,21 20:6,25 21:16 21:19 23:9 39:1 43:6,14 46:15 46:18,24,25 47:3,4,6,20 48:12 49:6,18 52:14,22 Secretary's 43:10 44:1 46:6 46:20 52:20 section 7:16 9:13 12:19 17:7 21:19 44:10 51:12 52:15,15 52:16,23 53:25 54:2,2 sections 23:25 see 17:2 34:4 36:3,6 41:15 44:7,8 45:11 seeking 20:22 seeks 27:17 seen 45:7 sees 51:14 sell 5:1 7:1 12:21 13:2,4,8,9,24 15:20,25 40:15 40:22,23 41:2	selling 15:24 50:1,19,25 51:6 51:17 send 27:4 separate 33:7 separately 26:3 26:5 separates 53:5 series 16:19 seriously 46:24 set 3:12,17 7:24 13:23 17:12 20:9 49:3 52:19 52:19 53:2 sets 3:22 setting 46:21 47:14 48:6 49:2 Seventh 8:3,9 10:19 37:12 severability 50:16 severable 50:13 50:17 sharp 30:11,12 sheep 52:4 shepherded 11:10 ship 11:14,17,25 14:14,22 short 14:9 shorthand 16:3 show 28:17 showing 31:12 side 40:22 similar 23:24 48:20 similarly 22:14 simple 33:25 34:15,17 simply 22:12 37:12 43:12 site 4:14 situation 12:6 16:17 18:15 19:5 20:1 23:11	23:14,15 situations 18:23 skin 47:22,25 49:7 slaughter 6:25 7:2 8:6 9:7,17 10:17 15:3 21:2 25:1 29:14 30:20 31:6,8,23 38:13 41:21 44:12,13 45:2,3 45:6,7 47:1 53:16,19,21 slaughtered 7:15 9:3,21 16:15 18:11 29:14,17 29:21 30:2,5 31:6,23 38:11 39:19,21 40:14 45:6 48:1 slaughterhouse 3:15,17 4:10,15 4:18,24 5:2,18 6:10,19 7:11 8:16,17 10:4,22 11:1,6,7 12:12 13:22 15:9,12 15:16,22,25 16:10,20 17:1,4 17:8,14 18:12 19:7,9,25 20:5 20:6,25 21:6,7 21:25 22:16 26:25 29:20,21 34:19 35:7 38:24 40:14 43:24 50:4 51:15 53:1,8 slaughterhouses 3:14 6:22 11:21 11:22 12:6 19:16 22:19 25:1,6,8 26:17 31:15,17 51:12 52:7
---	---	--	--	--

slaughtering 6:12 44:18	species 7:9,15 7:15,17,21,22 7:23 10:3 16:14	statistics 14:4,10 14:12	Supreme 1:1,13 sure 17:3 36:17 43:7,11 46:21	21:6 22:24 44:18 48:12
slightly 12:15	specific 25:19 41:24,25	statute 11:24 25:12 36:8,8 37:13,15,21 45:14 46:12 47:14	SUSAN 1:22 2:10 27:20	things 24:2 25:2 26:2 41:24
Smith 1:22 2:10 27:19,20,22 28:6,13,21 29:2 29:12,24 30:9 30:14,25 31:4 31:19 32:6,23 33:14,21 34:18 35:17 36:11 37:7,22 38:16 38:22 39:5,11 39:22 40:11,20 41:1,11 42:7,14 42:17 43:5,25 44:21 45:5 46:17 47:3,6,11 47:19 48:3,15 48:18,21 49:20 50:12,21 51:10 52:4,8	specifically 12:18 19:20 30:15 40:9 specified 36:16 43:7 44:1 specifies 39:7 spot 25:23 stamped 13:21 standard 20:9 22:12 standards 23:21 47:24 53:20 started 11:22 starting 43:20 starts 4:17 State 8:5,10,23 9:10 10:5 11:13 11:24 13:1,1,2 13:23 16:23,25 17:1,4,12,21 18:12,19 19:10 20:3,15,19,23 20:24 21:4,10 22:1,3,7,11,15 22:15,17,22,23 23:1,1,11,14 23:15,25 24:22 24:23,25 25:5 27:24,25 28:3 32:22 37:7,12 37:14,18,20 39:3 40:15,18 41:5 47:17,18 52:24 53:1,15	statutes 8:12 48:9 step 6:17,20,21 25:5 steps 6:19,21 25:5 STEVEN 1:16 2:3,13 3:7 52:11 stockyards 19:24 stop 16:25 17:20 51:18 strange 8:25 strong 50:23 stuff 49:10 subject 7:10 25:9 41:19,20 42:5,6 42:8 44:18 45:1 52:18 submitted 54:9 54:11 subparagraph 50:15 subsection 7:16 suggested 10:18 suitable 20:10 supply 33:4,17 33:19,22 36:19 36:23 37:5 45:8 supporting 1:20 2:8 18:6 suppose 23:24 24:1,4 26:22 37:6 47:19 50:8 supposed 16:21 23:22 24:6 26:24 37:21	suspect 28:25,25 35:6,9 swine 8:1 10:24 10:25 11:1,3,18 12:1 14:6 36:6 37:14,17,19 38:1 43:21 44:5 51:25 52:3,5 symptom 8:21 system 33:4,6,6 33:7,11,12,17 33:18,20,22 35:16 36:20,23 37:5 45:9 48:11 48:14	think 4:10,18 5:22 6:8,18 13:11,14,15 14:18,21,22,25 16:12 17:11 18:23 19:4,5 20:1,2 23:13,23 24:14 25:16,17 26:8,8 27:13,15 38:12 45:12 46:7,13 48:19 50:16 51:7 53:12 thinking 24:4 thought 12:8 24:1,5 28:21 47:23 three 23:24,25 thrown 11:10 time 14:15 36:1 title 5:5 16:4,9 16:17 24:23 today 52:1 told 49:9 touch 32:10 traditionally 47:16 transit 10:25 11:5 19:20 20:5 20:14,20 transport 14:6 transportation 12:4 14:3,8,17 19:15,18 20:13 transported 11:8 19:14 treat 26:2,4 treated 51:6,7,8 treatment 3:12 9:6 20:14 29:8 29:10,12,19
societal 9:20 sold 9:3,4,21 12:20 30:13 35:9 38:11 39:17 40:7,10 43:2,23 Solicitor 1:18 6:9 sorry 46:23 sort 23:5 SOTOMAYOR 5:13,24 6:3,7 6:14,24 7:4,6 7:12 15:19 16:7 28:5,10 35:4 36:1 42:21 43:15 46:23 47:4 Sotomayor's 27:14 speak 25:20 40:6 40:9 speaking 9:15,16 speaks 9:1	States 1:1,13,20 2:7 8:14 18:5 21:24 23:18 25:8 39:7 40:25 station 17:20 21:5		<hr/> T <hr/> T 2:1,1 take 24:8 28:23 33:8 37:8 taken 23:17 takes 51:4 talking 41:4,7,16 41:18,18 45:15 talks 44:15 target 5:23 tell 6:7 10:21 15:3,4,12,19 16:19 18:12 25:6,8 26:11,17 ten 27:2,7,8,9 terms 40:2 47:21 text 31:11 38:25 39:6 40:3 Thank 18:2 27:18 52:9,13 54:5,7 theme 27:3 theory 48:1 thing 10:23 19:4	

31:17 51:24 53:20 trenching 36:7 trip 14:15 truck 11:9 14:21 17:20 18:16,17 21:11 trucks 8:22 16:24 17:10 19:20 20:23 21:5 true 8:19 15:14 28:20 truth 26:11 try 18:24,24 52:24 trying 26:5 48:11 48:12,13 49:3 51:13 turn 19:11 26:17 turned 16:15 20:11 28:15 29:1,17 30:4,17 32:8,20 turning 23:10 28:8 two 25:3,5 36:11 45:14 46:1,1,9 49:14 twofold 50:22 51:21	understood 16:5 35:4 uniformity 53:12 United 1:1,13,20 2:7 18:5 unlawful 4:25 5:1 11:13,17 22:9 unmistakably 3:11 21:1 upstream 17:16 USDA 13:21 usually 10:25 U.S 29:25 30:1 U.S.C 7:16,16 12:19 53:25 54:2	way 5:15 8:14,23 8:24 11:6 12:11 12:21 13:4 15:10,11 26:13 50:6 51:7 ways 26:19 Wednesday 1:10 weigh 17:20 21:5 Wells 1:16 2:3 2:13 3:6,7,9 4:5 4:7,16 5:4,10 5:20 6:1,5,13 6:16 7:3,5,7,14 7:19 8:7 9:8,18 9:24 10:8,11,14 11:3,15,19 12:2 12:14 13:11,14 14:9,18 15:6 16:2,11 17:6,22 52:10,11,13 54:7 went 50:14 weren't 4:13 we'll 3:3 17:1 we're 16:8 29:16 we've 6:5 wholesome 29:4 35:20 36:17 44:6 win 43:4 withdraw 39:7 withdrawing 29:16 48:4,23 withdraws 36:21 word 6:17 24:1 words 34:6 40:17 41:8 work 26:6,11,14 worker 16:20,20 53:1,2,3,8 working 24:17 wouldn't 8:11 12:12 20:21 25:23 write 26:1,4	<hr/> X <hr/> x 1:2,8 <hr/> Y <hr/> Young 10:18 <hr/> 1 <hr/> 10-224 1:5 3:4 10:04 1:14 3:2 11 7:25 26:4 11-part 26:1 11:04 54:10 18 2:7 1958 53:22 1978 53:20 <hr/> 2 <hr/> 2005 7:24 2011 1:10 21 7:16 12:19 53:24 54:2 220,000 14:6 27 2:11 <hr/> 3 <hr/> 3 2:4 302.3 52:19 309.1(b) 19:22 <hr/> 4 <hr/> 4 52:10 440,000 14:7 47 52:21 <hr/> 5 <hr/> 52 2:14 <hr/> 6 <hr/> 6 9:11 601 7:16 602 36:16 43:13 52:15,23 603 31:19 52:15 603(a) 17:7 603(b) 9:13 53:25	604 52:16,23 610 31:19 44:10 54:2 610(b) 54:2 610(c) 12:19 6100 52:20 621 43:6,10 678 6:18 21:19 34:21 39:24 <hr/> 9 <hr/> 9 1:10 52:19
<hr/> U <hr/> ultimately 43:23 unadulterated 12:22 29:5 35:20 36:9,18 underlying 26:16 26:20 27:17 understand 16:2 20:22 24:22 26:14 32:18 35:11 44:8 understanding 24:15	<hr/> V <hr/> v 1:5 3:5 vacating 25:21 valid 36:2 variations 27:3 various 37:19 vast 25:24 veterinarian 37:2 veterinarians 23:8,8 views 51:8 violated 32:22 <hr/> W <hr/> w 7:16 wait 29:18 30:22 35:7 waiting 8:22 walk 15:5 47:2 want 22:6 26:6 27:10,11 48:5 wanted 20:3 wants 26:17 29:22 Washington 1:9 1:19 wasn't 9:15 51:6			